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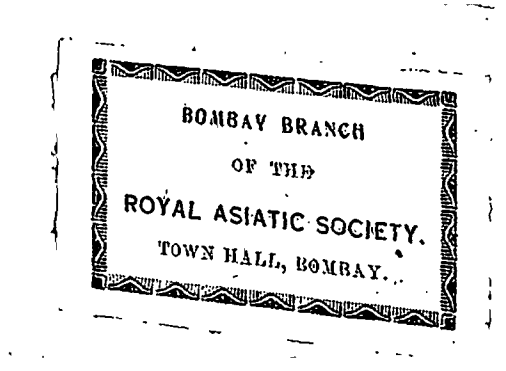


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# SPEECHES

OF

# HENRY LORD BROUGHAM,

UPON QUESTIONS RELATING TO

PUBLIC RIGHTS, DUTIES, AND INTERESTS;

WITH

HISTORICAL INTRODUCTIONS,

AND

A CRITICAL DISSERTATION

UPON THE ELOQUENCE OF THE ANCIENTS.

IN FOUR VOLUMES.

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TO THE MOST NOBLE

# RICHARD MARQUESS WELLESLEY,

SUCCESSIVELY

THE GOVERNOR GENERAL OF INDIA,

BRITISH AMBASSADOR IN SPAIN,

SECRETARY OF STATE FOR FOREIGN AFFAIRS,

AND

LORD LIEUTENANT OF IRELAND,

THESE VOLUMES ARE INSCRIBED

AS A TRIBUTE

MOST JUSTLY DUE TO SO ILLUSTRIOUS A STATESMAN;

AND IN COMMEMORATION

OF THE RARE FELICITY OF ENGLAND,

SO RICH IN GENIUS AND CAPACITY FOR AFFAIRS,

THAT SHE CAN SPARE FROM HER SERVICE

SUCH MEN AS HIM.

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# PREFACE.

The plan of the present publication is sufficiently obvious. The Introductions to the different Speeches are intended to elucidate the History of the Measures discussed, and of the Periods to which they relate. But the most satisfactory, indeed the only accurate, manner of giving the History of the Times, must always be to give an account of the Persons who bore the chief part in their transactions. This is more or less true of all annals; but it is peculiarly so of political annals. The course of state affairs, their posture at any given period, and the nature of the different measures propounded from time to time, can only be well understood, by giving an accurate representation of the characters of those who figured most remarkably upon the scene.

It is not, however, by those pieces of composition which abound in many histories, under the name of "Characters," that any thing like this knowledge can be conveyed. Without any regard to fine writing, measured and balanced periods, or neat and pointed antitheses, the personages must be described such as they really were, by a just mixture of general remarks, and reference to particular passages in their lives. In no other way can they be made known; in no other way, indeed, can the very first requisite of such sketches be attained,—the exhibition of the peculiarities that marked the originals,—the preservation of the individuality of each.

The works of some of our most celebrated writers, both ancient and modern, deserve to be studied, with the view of avoiding as much as it is possible their manner of performing this most important of the Historian's duties. The main object in those compositions plainly is, to turn sentences, and not to paint characters. The same plan is pursued in all cases. Is an able ruler, and one of virtuous life, to be described? The author considers what qualities are wanting to constitute great capacity for affairs. So he hangs together the epithets of wise, and prudent, and vigorous, and pro-

vident; and never fails to bestow on the individual great caution in forming his plans, and much promptitude in executing them. But discrimination must be shewn. So the author reflects how the excess of a virtue may become a vice; and therefore the hero of the tale has prudence without timidity—boldness without rashness—and a great many things without a great many other things. Accordingly, we find the produce of a workmanship as useless as it is easy, to be a set of characters all made nearly in the same mould, without distinction of colour, or feature, or stature; displaying the mere abstractions of human nature, and applying, almost equally, one set to any able or virtuous person, and the other to any person of inferior capacity and of wicked life. The Speeches put into the mouths of great men by the ancient Historians are from the same kind of workshop—Cato is made to deliver himself exactly like Cæsar; that is, they both speak as Sallust wrote.

In the attempts which these volumes contain, to represent individuals, for the purpose of recording the History of their times, all ambition of fine writing has been laid aside, and nothing, but the facts of each case, and the impressions actually left upon the writer's

memory, has ever been regarded in the least degree. With one only exception, the sketches are the result of personal observation, and in general of intimate acquaintance; so that each individual may be said to have sitten for his picture. No sacrifice has ever been made to attain the unsubstantial and unavailing praise of felicitous composition. Nor has any the least door been left open to feelings of a worse kind, whether amicable or hostile. The relations of friendship and enmity, whether political or personal, have been wholly disregarded, and one only object kept steadily in view—the likeness of the picture, whether critical or moral.*

* In describing the persons who mainly contributed to abolish the Slave Trade, the reader will perceive that the much-honoured name of Z. Macaulay is omitted. He had not, in fact, ceased to live when that Introduction was printed, and hopes were still entertained of his remaining some time longer amongst us. This great omission, therefore, cannot now be supplied. But it may still be recorded, that after Wilberforce and Clarkson, there is no one whose services in the cause as well of Emancipation as of Abolition, have been more valuable. It is indeed saying all, to say, as with strict accuracy we may, that of Emancipation he was the Clarkson. His practical acquaintance, too, with the whole question, from actual residence both in Africa and the West Indies, was of material use through every part of the great controversy which he almost lived to see happily closed. But his laborious habits, his singularly calm judgment, his great acuteness, the absolute self-denial which he ever shewed in all that related to it, and the self-devotion with which he sacrificed his life to its promotion, can only be conceived

It is conceived that some good service may be rendered to the cause of human improvement, which the author has ever had so much at heart, by the present publication, because its tendency is to fix the public attention upon some of the subjects most important to the interests of mankind. The repression, or at least the subjugation, of party feelings, must be always of material benefit to the community, and tend to remove a very serious obstruction from the great course in which legislation is advancing. Party connexion is indeed beneficial as long as it only bands together those who, having formed their opinions for themselves, are desirous of giving them full effect. But so much of abuse has generally attended such leagues, that reflecting men are now induced to reject them altogether. Their greatest evil certainly is the one most difficult to be shunned—their tendency to deliver over the many to the guidance of the few, in matters where no dominion ever should be exercised—to make the opinions adopted by leading men pass current, without any reflec-

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by his fellow-labourers who witnessed these rare merits; and still less is it possible to represent adequately the entire want of all care about the glory of his good works, which made him indeed prefer doing his duty in silence, in obscurity, and in all but neglect.

tion, among their followers—to enfeeble and corrupt the public mind, by discouraging men from thinking for themselves—and to lead multitudes into courses which they have no kind of interest in pursuing, in order that some designing individuals may gain by their folly or their crimes. As society advances, such delusions will become more and more difficult to practise; and it may safely be affirmed, that hundreds now-a-days discharge the sacred duty to themselves and their country, of forming their own opinions upon reflection, for one that had disenthralled himself thirty years ago.

# SPEECHES

## IN TRIALS FOR LIBELS

CONNECTED WITH

## MILITARY FLOGGING.

# INTRODUCTION.

STATE OF OPINION.—MR. WILLIAM COBBETT.

AN opinion had for some years begun to prevail among political reasoners, and had found its way also into the army, that the punishment of flogging, to which our troops alone of all the European soldiery are subject, was cruel in its nature, hurtful to the military character in its effects, and ill calculated to attain the great ends of all penal infliction,—the reformation of the offender, and the prevention of other offences by the force of example. Several tracts had been published, chiefly by military officers, in which the subject was discussed; and among these the pamphlets of Generals Money, Stewart, and Sir Robert Wilson, were the most distinguished, both for their own merits, and the rank and services of their authors, who had never borne any part in political controversy,

or in as far as they had been led by accidental circumstances to declare their opinions, had been found the supporters of the old established order of things in all its branches. In 1810 Mr. Cobbett, who having himself served in North America, had witnessed the effects of this species of punishment, and had naturally a strong feeling for the character of the profession, published some strictures on the subject in his "Political Register." That work enjoyed in those days a great circulation and influence. It always was one of extraordinary ability, and distinguished by a vigorous and generally pure English style; but it was disfigured by coarseness, and rendered a very unsafe guide by the author's violent prejudices,—his intolerance of all opinions but his own, and indeed his contempt of all persons but himself,—his habitual want of fairness towards his adversaries,—his constant disregard of facts in his statements,—and the unblushing changes which he made in his opinions upon things, from extreme to extreme, and in his comments upon men, from the extravagance of praise to the excess of vituperation. These great defects, above all, the want of any fixed system or settled principle, almost entirely destroyed his influence as a periodical writer, and extremely reduced the circulation of his paper, long before his death and its discontinuance, which were contemporaneous; he having for the unexampled period of five and thirty years carried on this weekly publication unassisted by any one, although he was interrupted by his removal to America, whence he transmitted it regularly for several years, and was likewise both hampered by difficulties arising out of farming speculations, and occupied occasionally by several other literary works. But in 1810 his weight with

the public had suffered little if any diminution, and a very large number of his Register was printed. The strictures on flogging were not distinguished by any of Mr. Cobbett's higher qualities of writing. They were a mere effusion of virulence upon the occasion of a punishment having taken place in the local militia of Ely. They were addressed not to the understanding nor even to the feelings of the reader; but rather to those of the soldiery who suffered the infliction, and of the byestanders who witnessed it; their tone and terms being, 'You well deserve to be treated like brutes, if by submitting to it you shew yourselves to be brutes.'

Such was the spirit in which the few remarks in question were conceived; and indeed this was their substance, although these were not the words employed. According to the notions in those days entertained of the law of libel, it could excite no surprise that the government prosecuted the author and publisher; Sir Vicary Gibbs, then Attorney-general, having frequently filed informations for remarks, as calm and temperate as these were coarse and violent. Mr. Cobbett was accordingly brought to trial in the month of June 1810. He defended himself; and appearing then for the first time before a public audience, exhibited a new but by no means a rare example of the difference between writing and speaking; for nothing could be more dull and unimpressive than his speech, nothing less clear and distinct than its reasoning, more feeble than its style, or more embarrassed and inefficient than its delivery. The writer and the speaker could hardly be recognised as the same individual,—such is the effect of embarrassment, or such the influence of manner. But he afterwards defended himself in 1820 against actions

brought by private parties whom he had slandered; and then, having by practice during the interval, acquired considerable ease of speaking, his appearance was more than respectable,—it was very effective. His style was also abundantly characteristic and racy; it had great originality,—it suited the man,—it possessed nearly all the merits of his written productions, and it was set off by a kind of easy, good-humoured, comic delivery, with no little archness both of look and phrase, that made it clear he was a speaker calculated to take with a popular assembly out of doors, and by no means certain that he would not succeed even in the House of Commons; where when he afterwards came, he certainly did not fail, and would have had very considerable success had he entered it at an earlier age. In 1810 he was convicted, (as in 1820, he had verdicts with heavy damages against him) and his sentence was a fine of L.1000, and two years' imprisonment in Newgate;—a punishment which may well make us doubt if we now, seeing the productions of the periodical press, live in the same country and under the same system of laws.

In the month of August immediately following, the subject was taken up by a writer of great powers, the late Mr. John Scott, who afterwards conducted a weekly paper, published in London, called the "Champion." He was honourably distinguished by several literary works, and unfortunately fell in a duel, occasioned by some observations upon a gentleman whose conduct had come in question. In 1810 he was a contributor to the "Stamford News," a Lincolnshire paper, distinguished for its constant adherence to the cause of civil and religious liberty. Its publisher, Mr.

John Drakard, was a person of great respectability, and shewed at once his high sense of honour, and his devotion to his principles, by steadily refusing to give up the author's name, when menaced with a prosecution. These remarks of Mr. Scott were soon afterwards copied into the "Examiner," a London paper, then conducted by Messrs. J. and J. L. Hunt; and the Attorney-general filed informations both against them, for the publication in London, and against Mr. Drakard, for the original publication in the country,—a species of vindictive proceeding not without its effect, in bringing all state prosecutions for libel soon afterwards into a degree of discredit which has led to their disuse.

The remarks were as follow:—

"ONE THOUSAND LASHES!!"

"The aggressors were not dealt with as Buonaparte would have treated his refractory troops."—SPEECH OF THE ATTORNEY-GENERAL.

"Corporal Curtis was sentenced to receive ONE THOUSAND LASHES, but, *after receiving Two Hundred*, was, on his own petition, permitted to volunteer into a regiment on foreign service. William Clifford, a private in the 7th royal *veteran* battalion, was lately sentenced to receive ONE THOUSAND LASHES, for repeatedly striking and kicking his superior officer. He underwent part of his sentence, by receiving *seven hundred and fifty lashes*, at Canterbury, in presence of the whole garrison. A garrison court-martial has been held on board the Metcalf transport, at Spithead, on some men of the fourth regiment of foot, for disrespectful behaviour to their officers. Two THOUSAND SIX HUNDRED LASHES were to be inflicted among them. Robert Chillman, a private in the Bearstead and Malling regiment of local militia, who was lately tried by a court-martial for disobedience of orders, and mutinous and improper behaviour, while the regiment was embodied, has been found guilty of all the charges, and sentenced to receive EIGHT HUNDRED LASHES, which are to be inflicted

on him at Chatham, to which garrison he is to be marched for that purpose."—*London Newspapers.*

"The Attorney-general said what was very true,—these aggressors have certainly not been dealt with as Buonaparte would have treated his refractory troops; nor, indeed, as refractory troops would be treated in any civilised country whatever, save and except only this country. Here alone, in this land of liberty, in this age of refinement, by a people who, with their usual consistency, have been in the habit of reproaching their neighbours with the cruelty of their punishment,—is still inflicted a species of torture, at least as exquisite as any that was ever devised by the infernal ingenuity of the Inquisition. No, as the attorney-general justly says, Buonaparte does not treat his refractory troops in this manner; there is not a man in his ranks whose back is seamed with the lacerating cat-o'-nine-tails; his soldiers have never yet been brought up to view one of their comrades stripped naked; his limbs tied with ropes to a triangular machine; his back torn to the bone by the merciless cutting whip-cord, applied by persons who relieve each other at short intervals, that they may bring the full unexhausted strength of a man to the work of scourging. Buonaparte's soldiers have never yet with tingling ears listened to the piercing screams of a human creature so tortured; they have never seen the blood oozing from his rent flesh; they have never beheld a surgeon, with dubious look, pressing the agonised victim's pulse, and calmly calculating, to an odd blow, how far suffering may be extended, until in its extremity it encroach upon life. In short, Buonaparte's soldiers cannot form any notion of that most heart-rending of all exhibitions on this side hell,—*an English military flogging.*

"Let it not be supposed that we intend these remarks to excite a vague and indiscriminating sentiment against punishment by military law; no, when it is considered that discipline forms the soul of an army, without which it would at once degenerate into a mob; when the description of persons which compose the body of what is called an army, and the situations in which it is frequently placed, are also taken into account, it will, we are afraid, appear but too evident, that the military code must still be kept distinct from the civil, and distinguished by greater promptitude and severity.

Buonaparte is no favourite of ours, God wot; but if we come to balance accounts with him on this particular head, let us see how matters will stand. He recruits his ranks by force,—*so do we.* We *flog* those whom we have forced,—*he does not.* It may be said he punishes them in some manner; that is very true. He imprisons his refractory troops, occasionally in chains, and in aggravated cases he puts them to death. But any of these severities is preferable to tying a human creature up like a dog, and cutting his flesh to pieces with whipcord. Who would not go to prison for two years, or indeed for almost any term, rather than bear the exquisite, the almost insupportable torment occasioned by the infliction of seven hundred or a thousand lashes? Death is mercy compared with such sufferings. Besides, what is a man good for after he has the cat-o'-nine-tails across his back? Can he ever again hold up his head among his fellows? One of the poor wretches executed at Lincoln last Friday, is stated to have been *severely punished* in some regiment. The probability is, that to this odious, ignominious flogging, may be traced his sad end; and it cannot be doubted that he found the gallows less cruel than the halberts. Surely, then, the Attorney-general ought not to stroke his chin with such complacency, when he refers to the manner in which Buonaparte treats his soldiers. We despise and detest those who would tell us that there is as much liberty now enjoyed in France as there is left in this country. We give all credit to the wishes of some of our great men; yet while any thing remains to us in the shape of free discussion, it is impossible that we should sink into the abject slavery in which the French people are plunged. But although we do not envy the general condition of Buonaparte's subjects, we really (and we speak the honest conviction of our hearts) see nothing peculiarly pitiable in the lot of his soldiers, when compared with that of our own. Were we called upon to make our election between the services, the whipcord would at once decide us. No advantage whatever can compensate for, or render tolerable to a mind but one degree removed from brutality, a liability to be lashed like a beast. It is idle to talk about rendering the situation of a British soldier pleasant to himself, or desirable, far less honourable, in the estimation of others, while the whip is held over his head, and over his head alone; for in no other coun-

try in Europe (with the exception, perhaps, of Russia, which is yet in a state of barbarity) is the military character so degraded. We once heard of an army of slaves, which had bravely withstood the *swords* of their masters, being defeated and dispersed by the bare shaking of the *instrument of flagellation* in their faces. This brought so forcibly to their minds their former state of servitude and disgrace, that every honourable impulse at once forsook their bosoms, and they betook themselves to flight and to howling. We entertain no anxiety about the character of our countrymen in Portugal, when we contemplate their meeting the *bayonets* of Massena's troops; but we must own that we should tremble for the result, were the French general to dispatch against them a few hundred drummers, each brandishing a *cat-o'-nine-tails*."

The Middlesex jury in Westminster, where the first of these two trials took place, after retiring for two hours, acquitted the defendants, Messrs. Hunt, although Lord Ellenborough had given a very powerful charge to them, in favour of the prosecution, and declared his opinion without any doubt to be, that the publication was made with the intentions imputed to it in the Information, of exciting disaffection in the army, and deterring persons from entering it.

Sir Robert Wilson, who had been subpœnaed as a witness by the defendants, but was not examined, sat on the bench by Lord Ellenborough during the whole proceedings, in the course of which allusion was made to his Tract, not only by the counsel on both sides, but by the learned judge, who, entertaining no doubt at all of the perfect purity of his intentions, expressed, but respectfully expressed, a wish that he had used more guarded language; and indeed, his Lordship thought that all officers, instead of publishing on so delicate a subject, ought to have privately given their opinions to the government.

At Lincoln, where Mr. Brougham went on a special retainer, three weeks afterwards, to defend Mr. Drakard, the difference between a provincial jury and one in the metropolis was seen; for there a conviction took place, and the worthy and independent publisher was afterwards, by the Court of King's Bench, where he was brought up for judgment, sentenced to eighteen months' imprisonment.

These trials were not without their influence upon the great question to which they related. The speeches delivered, the discussion of the merits of the case in the public papers, the conversation to which, in the course of the next session, they gave rise in Parliament, brought, for the first time, this subject before the country, and also turned the attention of military men to it much more than it had heretofore been, among a class always prone to abide by existing usages, and hardly capable, indeed, of conceiving things to be other than as they have always found them. A subject which has since been discussed with the most unrestricted freedom of comment in all circles—in every kind of publication—in meetings of the people, as well as in the chambers of Parliament—before the troops themselves, as well as where only citizens were congregated,—and which has finally been made matter of investigation by a military board,—can at this time of day hardly be conceived to have excited, less than thirty years ago, so much apprehension, that the broaching it at all, even in very measured terms, drew down censure from the bench upon general officers who had been so adventurous as to handle it; and the approaches to its consideration were carefully fenced by all the terrors with which the law of libel, vague and ill-defined, arms the executive

government in this country. There seemed to prevail a general anxiety and alarm, lest, by the discussion, feelings of a dangerous kind should be excited in the soldiery. A mysterious awe hung over men's minds, and forbade them to break in upon the question. A fence was drawn around the ground, *taboo'd* as it were by military engines, and other symbols of mere force. A spell bound the public mind, like that invisible power which, on board of ship, keeps all men's limbs, with their minds, under the control of a single voice. The dissolving of this spell, and the dissipation for ever of all these apprehensions, must be traced to the trials of Drakard and the Hunts. The light is now let in upon this as upon all other questions, whether of civil, or criminal, or military polity; and the reign of the lash is no more privileged from the control of public opinion, and the wholesome irritation of free discussion, than that of the hulks or the gibbet. Men may still form various opinions upon the subject. Enlightened statesmen and experienced captains may differ widely in the conclusions to which their observation and their reasoning have led them. It is still, perhaps, far from being demonstrated, that a punishment which such high authorities as the Duke of Wellington regard as indispensible to a certain extent, can be all at once safely abandoned. But whatever may be the result of the inquiry, it is now an entirely open question. Its being thus thrown open, and placed on the same footing with every other chapter of our penal code, will assuredly lead to its being rightly settled in the end; and the trials to which we have adverted, mainly contributed to this salutary result.

# CASE

OF

# JOHN HUNT AND JOHN LEIGH HUNT.

JANUARY 22, 1811.

# SPEECH.

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MAY IT PLEASE YOUR LORDSHIP,—GENTLEMEN OF THE JURY,—In rising to support the cause of these defendants, I feel abundantly sensible of the difficulties under which they labour. It is not that they have to contend, with such unequal force on my part, against the talents, and learning of the Attorney-general, and the high influence of his office; nor is it merely that they stand in the situation of defendants prosecuted by the crown, for in ordinary cases they would have the common presumption of innocence to work in their favour; but the hardship of their case originates in the nature of the charge on which they are brought before you,—a charge of libel, at a time when the licentiousness of the press has reached to a height which it certainly never attained in any other country, nor even in this at any other time. That licentiousness, indeed, has of late years appeared to despise all the bounds which had once been prescribed to the attacks on private character, insomuch that there is not only no personage so important or exalted,—for of that I do not complain,—but, no person so humble, harmless, and retired, as to escape the defamation which is daily and hourly poured forth by a venal tribe, to gratify the idle curiosity, or

the less excusable malignity, of the public. To mark out for the indulgence of that propensity, individuals retiring into the privacy of domestic life,—to hunt them down for the gratification of their enemies, and drag them forth as a laughing-stock to the vulgar, has become in our days, with some men, the road even to popularity; but with multitudes, the means of earning a base subsistence. Gentlemen, the nature and the causes of this evil it is unnecessary for me to point out. Indeed, I am far from saying that there is nothing to extenuate it; I am ready even to admit that this abuse of the press in defaming private characters, does derive no small apology from the insatiable love of publicity which preys upon a great part of the community; leading them scarcely to value existence itself, if it is not passed in the eyes of the world, and to care but little what they do, so they be only stared at, or talked of. It furnishes somewhat of excuse, too, that the public itself is insatiable in its thirst for slander; swallows it with a foul, indiscriminate appetite; and, liberal at least in its patronage of this species of merit, largely rewards those whom it sends forth to pander for those depraved tastes. But, in whatever way arising, or however palliated, the fact of the abuse of the press is certain, and the consequences are fatal to the press itself; for the licentiousness of which I complain has been the means of alienating the affections of those who had ever stood forward as its fastest friends and its firmest defenders. It has led them to doubt the uses of that which they have seen so perverted and abused. It has made them, instead of blessing "the useful light" of that great source of improvement, see in it only an instrument of real mischief, or doubtful good; and when they find, that instead of being kept pure, for the instruction of the world; instead of being confined to questioning the

conduct of men in high situations, canvassing public measures, and discussing great general questions of policy; when they find that, instead of such, its legitimate objects, this inestimable blessing has been made subservient to the purposes of secret malice, perverted to the torture of private feelings, and the ruin of individual reputation,—those men have at last come to view it, if not with hostility, at least with doubtful friendship, and relaxed zeal for its privileges. It is no small aggravation of this prejudice, that the defendants come into court to answer this charge, after other libels of a more general description have been published and prosecuted; after those, to which the Attorney-general has so forcibly alluded in the opening of this case, have so lately been brought before the Court, and their authors and circulators convicted. At first sight, and upon merely stating the subject of this publication, it is but natural for you to imagine that there is some similarity between those other cases and the present; and that a publication on the general subject of military punishment (which is the only point of resemblance), belongs to the same class of libels with those so anxiously alluded to by my learned friend,—with those particularly for which Mr. Cobbett, and probably some others, are suffering the sentence of the law.

The Attorney-general did not put these circumstances in the background; he was anxious to draw a parallel between this case and Mr. Cobbett's. It will be unnecessary for me to follow this comparison; all I say in the outset is, that I confidently predict, I shall not proceed far before I shall have convinced you, gentlemen, that light is not more different from darkness than the publication set forth in this record is different from all and each of the former publications brought before the Court by the Attorney-general for conviction, and now again brought forward for argument.

The consequence of all these prepossessions, in whatever way arising, is, I will not say fatal, but extremely hurtful to these defendants. It places them in a torrent of prejudice, in which they would in vain have attempted, and I should not have counselled them to stand, had they not rested on the firm footing of the merits of their individual case, and the confidence that his lordship and you will cheerfully stretch forth an helping arm in the only way in which you can help them; in the only way in which they ask your aid—that you will do strict justice between the Crown and them, by entering into an examination of their single individual case.

Gentlemen, you have to try whether the particular publication, set forth in this Record, has manifestly, upon the bare appearance of it, been composed and published with the evil intention, and with the bad purpose and hurtful tendency alleged in the Information. If their intention has apparently been good; or, whether laudable or not, if it has been innocent and not blameworthy; then, whatever you may think of the opinions contained in the work—even though you may think them utterly false and unfounded—in whatever light you may view it critically as a piece of composition—though you may consider the language as much too weak or as far too strong for the occasion—still if you are convinced there is nothing blameable in the intention which appears to have actuated the author and publisher, (for I will take the question on the footing that the author himself is before you, though the evidence, on the face of it, bears me out in distinctly asserting that these defendants did not write this article, but copied it from another work which they particularly specify, yet, in order to argue the question more freely, I will suppose it is the case of the original composer, which you are now to try, and I am sure

my learned friend cannot desire me to meet him on higher or fairer ground), I say then, that if you are not convinced,—if, upon reading the composition attentively, you are not, every one of you, fully and thoroughly convinced,—that the author had a blameable, a most guilty intention in writing it, and that he wrote it for a wicked purpose, you must acquit those defendants who republished it. This, gentlemen, is the particular question you have to try; but I will not disguise from you, that you are now trying a more general and important question than this. You are now to determine, whether an Englishman still enjoys the privilege of freely discussing public measures—whether an Englishman still possesses the privilege of impeaching (for if he has a right to discuss, he has a right to espouse whichever side his sentiments lead him to adopt, and may speak or write against, as well as for,)—whether he has still a right to impeach, not one individual character, not one or two public men, not a single error in policy, not any particular abuse of an established system—I do not deny that he has the right to do all this, and more than this, but it is not necessary for me now to maintain it,—but the question for you to try is, whether an Englishman shall any longer have the power of making comments on a system of policy, of discussing a general, I had almost said an abstract, political proposition, of communicating to his countrymen his opinion upon the merits, not of a particular measure, or even a line of conduct pursued by this or that administration, (though no man ever dreamt of denying him this also,) but of a general system of policy, which it has pleased the government to adopt at all times:—Whether a person, devoted to the interests of his country, warm in his attachment to its cause, vehemently impelled by a love of its happiness and glory, has a right to endeavour, by his own individual exertions, to make that

perfect which he so greatly admires, by pointing out those little defects in its constitution which are the only spots whereupon his partial eyes can rest for blame:—Whether an Englishman, anxious for the honour and renown of the army, and deeply feeling how much the safety of his country depends upon the perfection of its military system, has a right to endeavour to promote the good of the service, by showing wherein the present system is detrimental to it, by marking out for correction those imperfections which bear, indeed, no proportion to the general excellence of the establishment, those flaws which he is convinced alone prevent it from attaining absolute perfection?—Whether a person, anxious for the welfare of the individual soldier; intimately persuaded that on the feelings and the honour of the soldier depend the honour and glory of our arms; sensible that upon those feelings and that honour hinges the safety of the country at all times, but never so closely as at present,—whether, imbued with such sentiments, and urged by these motives, a man has not a right to make his opinions as public as is necessary to give them effect?—Whether he may not innocently, nay laudably, seek to make converts to his own views, by giving them publicity, and endeavour to realize his wishes for the good of the state, and the honour of its arms, by proving, in the face of his fellow-citizens, the truth of the doctrines to which he is himself conscientiously attached? These, gentlemen, are the questions put to you by this Record; and your verdict, when it shall be entered upon it, will decide such questions as these.

Gentlemen, it is, I am persuaded, known to all of you, that, for many years past, the anxious attention of the government of this country has been directed (at times, indeed, to the exclusion of all other considerations) towards the improvement of our military establishment. It would be endless, and it would be un-

necessary for me to enter into the various projects for its improvement, which from time to time have been entertained by our rulers, and adopted or rejected by the legislature: it is enough that I should state, in one short sentence, that all those plans have had the same common objects—to protect and benefit the private soldier, to encourage the recruiting of the army, and to improve the character of those who compose it, by bettering the condition of the soldier himself. In the prosecution of these grand leading designs, various plans have been suggested by different statesmen of great name; plans which I need not particularize, but to some of which, in so far as they relate to the present Information, it is necessary that I should direct your attention. One of the chief means suggested for improving the condition of the soldier, is shortening the duration of his service; and upon that important subject it is unnecessary for me to use words of my own, when I have, in a publication which is before the world, and I dare say has been before you (at least you cannot be unacquainted with the name and the fame of the author,) that which better expresses my sentiments than any language I could use myself. The arguments are there so forcibly stated, and the subject is altogether placed in so luminous a point of view, that it is better for me to give them in the words of the respectable writer, the gallant officer I have alluded to. It is Sir Robert Wilson, gentlemen, whose presence here as a witness, should it be necessary to call him, prevents me from saying, so strongly as I could wish, what, in common with every one, I do most sincerely feel—that there is not, among all the brave men of whom the corps of officers in the British army is composed, one, to whom the country, considering his rank and the time of his service, is more indebted —one who has more distinguished himself by his enthusiastic, I had almost said romantic, love of the

service—one who has shown himself a more determined, I may really say personal, enemy of the ruler of France, or a faster friend to the cause and the person of his own Sovereign, and of his Royal Allies. This gallant officer, in the year 1794, published a tract "On the means of improving and re-organizing the Military Force of this Empire." It was addressed to Mr. Pitt, then minister of the country, and whose attention, as well as that of the author, was at that time directed to whatever was likely to improve our military system,—to encourage the obedience, and exalt the character of the soldier already in the army,—and to promote the recruiting of it from among those who had not yet entered into the service. He mentions a great variety of circumstances which deter men from enlisting, and render those who do enter of less value to the profession. Among others, he mentions the term, the duration of their service. He says, in a language powerful indeed, and strong, but any thing rather than libellous, "It is strange that in a free country, a custom so repugnant to freedom, as enlisting for life, and to the particular character of the British constitution, should ever have been introduced; but more singular, that the practice should have been continued after every other nation in Europe had abandoned it as impolitic, and as too severe an imposition upon the subject." "If in those countries," he proceeds, "where the inferior orders of society are born in vassalage, and where the will of the sovereign is immediate law, this power has been relinquished, in order to incline men voluntarily to enlist, surely there is strong presumptive evidence that the general interests of the service are improved, instead of being injured, by this more liberal consideration." He then goes on to illustrate the same topic in terms still more expressive of the warmth of his feelings upon so interesting a question,—"The inde-

pendence of an Englishman," says he, "naturally recoils at the prospect of bondage, which gradually produces discontent against the bent even of inclination." "How many men," he adds, in yet more glowing words,—but which I am far from blaming,—for I should have held him cheap, indeed, if, instead of giving vent to his sentiments in this free and appropriate manner, he had offered them as coldly and dryly as if he were drawing out a regimental return.—"How many men are there who have now not the faintest wish to leave their own estates, even for a journey into another county, but who, if restrained by any edict from quitting England, would find this island too narrow to contain them, would draw their breath convulsively, as if they craved free air, and feel all the mental anguish of a prisoner in a dungeon? What is the inference to be now fairly drawn from the perseverance in the system of enlisting for life? Is it not that the British service is so obnoxious and little conciliating, that, if the permission to retire were accorded, the ranks would be altogether abandoned, and the skeleton only remain, as an eternal and mournful monument of the wretchedness of a soldier's condition? Is it not a declaration to the world, that the service is so ungrateful to the feelings of the soldiery, that when once the unfortunate victim is entrapped, it is necessary to secure his allegiance by a perpetual state of confinement?" He then advances, in the course of his inquiry, to another topic; and in language as strong, as expressive of his honest feelings, and therefore as appropriate and praiseworthy, he talks of the service in the West India islands, and even goes so far as to wish those colonies were abandoned. I am not disposed to follow him in this opinion; I cannot go so far. But God forbid I should blame him for holding it; or that, for making his sentiments public, I should accuse him of having written

a libel on that service, of which he is at once the distinguished ornament and the zealous friend. It might bear, perhaps, an insinuation that such a topic was inflammatory,—that it had a tendency to excite discontent among the soldiers,—and to deter men from entering into the service. But far from imputing that to the gallant officer, I respect him the more for publishing a bold and downright opinion,—for expressing his feelings strongly; it is the best proof that he felt keenly. He proposes no less than that the West India islands should be given up, in order to improve our means of defence at home. He says, "It is, however, to be hoped, that the day is not remote, when our colonies shall cease to be such a claim upon the active population of this country: that charnel-house must be closed for ever against the British troops. The soldier who dies in the field is wrapped in the mantle of honour, and the pall of glory is extended over his relatives; but in a warfare against climate, the energy of the man is destroyed before life is extinguished; he wastes into an inglorious grave, and the calamitous termination of his existence offers no cheering recollection to relieve the affliction of his loss." Did Sir Robert Wilson mean to excite the brave and ill-fated regiments to mutiny and revolt, who were already enclosed in those charnel-houses? or did he mean to deter persons from enlisting in those regiments, who might otherwise have been inclined to join them? Did he mean to address any of the regiments under actual orders for the West India service, and to excite revolt among them, by telling every one who read the passage I have cited, that which it so forcibly puts to all soldiers under such orders,—"Whither are you going? You are rushing into a charnel-house!" Far be it from me to impute such motives,—it is impossible! The words I have read are uttered in the discussion of a general question,

—a question on which he speaks warmly, because he feels strongly. And pursuing the same course of reasoning in the same animated style, he comes to another and an important part, both of his argument and of the question in which we are now engaged.

In considering the nature of the tenure by which a soldier wears his sword; in considering that honour is to him what our all is to every body else; he views several parts of our military system as clashing in some sort with the respect due to a soldier's character; and, fired with a subject so near his heart, he at once enters into the question of military punishments, paints in language not at all weaker nor less eloquent than that of the publication before you,—in language that does him the highest honour,—the evils that result from the system of flogging, as practised in our army. He says, "The second, and equally strong check to the recruiting of the army, is the frequency of corporal punishment." Proceeding to enlarge on this most interesting point, in the course of his observations he uses such expressions as these. After judiciously telling us, that "it is in vain to expect a radical reform, until the principle of the practice is combated by argument, and all its evil consequences exposed by reasoning," he adds this assertion, for which every one must give him credit,—"Be this, however, as it may, I feel convinced that I have no object but the good of the service." He says, that "Sir Ralph Abercrombie was also an enemy to corporal punishments for light offences; his noble and worthy successor, whose judgment must have great influence, Lord Moira, General Simcoe, and almost every general officer in the army, express the same aversion continually, but they have no power of interference." Of that interference, then, he thinks there is no prospect, unless by reason and argument, and by freely discussing it, we can influence the

opinions of the country and the legislature,—a proposition to which all of us must readily assent. And he thus pursues,—"I feel convinced that I have no object but the good of the service, and, consequently, to promote the commander-in-chief's views, and that my feelings are solely influenced by love of humanity, a grateful sense of duty to brave men, and not by a false ambition of acquiring popularity,"—a motive which I am sure no one will impute to him. "If," he adds, "I did not think the subject of the most essential importance, no motive should induce me to bring it forward; if I was not aware that, however eager the commander-in-chief was to interpose his authority, the correction of the abuse does not altogether depend upon his *veto*, and cannot, with due regard to the peculiar circumstances of his situation, be required to emanate abruptly from him. My appeal is made to the officers of the army and militia, for there must be no marked discrimination between these two services, notwithstanding there may be great difference in their different modes of treating the soldiery. I shall sedulously avoid all personal allusions,—the object in view is of greater magnitude than the accusation of individual malefactors. I shall not enter into particulars of that excess of punishment which has, in many instances, been attended with the most fatal consequences. I will not, by quoting examples, represent a picture in too frightful a colouring for patient examination." He then says, "The present age is a remarkable epoch in the history of the world,—civilization is daily making the most rapid progress, and humanity is triumphing hourly over the last enemies of mankind; but whilst the African excites the compassion of the nation, and engages the attention of the British legislature, the British soldier, their fellow-countryman, the gallant, faithful protector of their liberties, and champion of their honour, is

daily exposed to suffer under the abuse of that power with which ignorance or a bad disposition may be armed." "There is no mode of punishment so disgraceful as flogging, and none more inconsistent with the military character, which should be esteemed as the essence of honour and the pride of manhood; but when what should be used but in very extreme cases, as the *ultimum supplicium*, producing the moral death of the criminal, becomes the common penalty for offences in which there is no moral turpitude, or but a petty violation of martial law, the evil requires serious attention." Here he appeals with a proud and exulting recollection to the practice of the regiment in which he had begun his military life.—"Educated," says he, "in the 15th light dragoons, I was early instructed to respect the soldier; that was a corps before which the triangles were never planted;"—meaning the triangles against which men are tied up when they receive the punishment of flogging.—"There," he adds, in the same language of glowing satisfaction, contrasting the character of his favourite corps with that debasement which the system of flogging elsewhere engenders,—"There," he exclaims, "each man felt an individual spirit of independence; walked erect, as if conscious of his value as a man and a soldier; where affection for his officer, and pride in his corps, were so blended, that duty became a satisfactory employment, and to acquire, for each new distinction, the chief object of their wishes. With such men every enterprise was to be attempted, which could be executed by courage and devotion, and there was a satisfaction in commanding them which could never have been derived from a system of severity." He proceeds, "There is no maxim more true than that cruelty is generated in cowardice, and that humanity is inseparable from courage. The ingenuity of officers should be exercised

to devise a mode of mitigating the punishment, and yet maintaining discipline. If the heart be well disposed, a thousand different methods of treating offences will suggest themselves; but to prescribe positive penalties for breaches of duty is impossible, since no two cases are ever exactly alike. Unfortunately, many officers will not give themselves the trouble to consider how they can be merciful; and if a return was published of all regimental punishments within the last two years, the number would be as much a subject of astonishment as regret. I knew a colonel of Irish militia, happily now dead, who flogged, in one day, seventy of his men, and I believe punished several more the next morning; but, notwithstanding this extensive correction, the regiment was by no means improved. Corporal punishments never yet reformed a corps; but they have totally ruined many a man who would have proved, under milder treatment, a meritorious soldier. They break the spirit, without amending the disposition; whilst the lash strips the back, despair writhes round the heart, and the miserable culprit, viewing himself as fallen below the rank of his fellow-species, can no longer attempt the recovery of his station in society. Can the brave man, and he endowed with any generosity of feeling, forget the mortifying vile condition in which he was exposed? Does not, therefore, the cat-o'-nine-tails defeat the chief object of punishment, and is not a mode of punishment too severe, which for ever degrades and renders abject? Instead of upholding the character of the soldier, as entitled to the respect of the community, this system renders him despicable in his own eyes, and the object of opprobrium in the state, or of mortifying commiseration."

He is now about to touch upon a topic which I admit to be of some delicacy. It is one of the topics

introduced into the composition before you: but a man of principle and courage, who feels that he has a grave duty to perform, will not shrink from it, even if it be of a delicate nature, through the fear of having motives imputed to him by which he was never actuated, or lest some foolish persons should accuse him of acting with views by which he was never swayed. Accordingly, Sir Robert Wilson is not deterred from the performance of his duty by such childish apprehensions; and, having gone through all his remarks, of which I have read only a small part, and having eloquently, feelingly, and most forcibly summed it up in the passage I have just quoted, he says, "It is a melancholy truth, that punishments have considerably augmented, that ignorant and fatal notions of discipline have been introduced into the service, subduing all the amiable emotions of human nature. Gentlemen who justly boast the most liberal education in the world, have familiarized themselves to a degree of punishment which characterizes no other nation in Europe." "England," (he adds pursuing the same comparative argument on which so much has this day been said,) "England should not be the last nation to adopt humane improvements;" and then, coming to the very point of comparison which has been felt by the Attorney-general as the most offensive, Sir Robert Wilson says: "France allows of flogging only in her marine; for men confined together on board ship require a peculiar discipline, and the punishment is very different from military severity. The Germans make great criminals run the gauntlet;" thus illustrating the principle that in no country, save and except England alone (to use the words of those defendants,) is this mode of punishment by flogging adopted.

Gentlemen, it is not from the writings of this gallant officer alone that I can produce similar passages,

though, perhaps, in none could I find language so admirable and so strong as his. I shall trouble you, however, with no more references, excepting to an able publication of another officer, who is an ornament to his profession, and whose name, I dare to say, is well known amongst you; I mean brigadier-general Stewart, of the 95th regiment, the brother of my Lord Galloway. This work was written while the plans, which I have already mentioned, were in agitation for the improvement of the army; and the object of it is the same with that of Sir Robert Wilson, to shew the defects of the present system, and to point out the proper remedies. "Without (he begins) a radical change in our present military system, Britain will certainly not long continue to be either formidable abroad, or secure at home." This radical change in our system is merely that which I have already detailed. He says, after laying down some general remarks, "If this view of the subject be correct, how will the several parts of our present military system be reconciled to common sense, or to any insight into men and things?" He then mentions the chief defects in the system, such as perpetuity of service, and the frequency of corporal punishments; and in discussing the latter subject, he says, "'No circumstance can mark a want of just discrimination more than the very general recurrence, in any stage of society, to that description of punishment which, among the same class of men, and with the alteration of the profession alone, bears the stamp of infamy in the estimate of every man. The frequent infliction of corporal punishment in our armies, tends strongly to debase the minds and destroy the high spirit of the soldiery. It renders a system of increasing rigour necessary; it deprives discipline of honour, and destroys the subordination of the heart, which can alone add voluntary zeal to the cold obliga-

tions of duty. Soldiers of naturally correct minds, having been once punished corporally, generally become negligent and unworthy of any confidence. Discipline requires the intervention of strong acts to maintain it, and to impress it on vulgar minds; punishment may be formidable, but must not be familiar; generosity or solemn severity must at times be equally recurred to; pardon or death have been resorted to with equal success; but the perpetual recurrence to the infliction of infamy on a soldier by the punishment of flogging, is one of the most mistaken modes for enforcing discipline which can be conceived." And then, alluding to the same delicate topic of comparison, which, somehow or other, it does appear no man can write on this subject without introducing,—I mean the comparative state of the enemy's discipline and our own,—he says: "In the French army a soldier is often shot, but he rarely receives corporal punishment; and in no other service is discipline preserved on truer principles." Gentlemen, I like not the custom, which is too prevalent with some men, of being over-prone to praise the enemy, of having no eyes for the merits and advantages of their own country, and only feeling gratified when they can find food for censure at home, while abroad all is praise-worthy and perfect. I love not this propensity to make such a comparison; however it is sometimes absolutely necessary, though it may always be liable to abuse: but in an officer like General Stewart or Sir Robert Wilson, it has the merit not only of being applicable to the argument, but in those men who have fought against that enemy, and who, in spite of his superior system, have beaten him, (as beat him we always do, when we meet him on any thing like fair terms), in such men it has the grace of liberality as well as the value of truth; and it not only adds a powerful reason to their own, but shews them

to be above little paltry feuds,—shews them combating with a manly hostility,—and proves that the way in which they choose to fight an enemy, is confronting him like soldiers in the field, and not effeminately railing at him. In the French army, general Stewart says, a soldier is often shot, but he rarely receives corporal punishment, and "in no other service," he adds, "is discipline preserved on truer principles." "I know the service," he means to say; "I have had occasion to see it in practice,—I have served with Austrians, Prussians, and Swedes,—but in no service is discipline preserved on truer principles than in the French; and, therefore, it is that I quote the example of the French, whose discipline is preserved on principles too true, alas! for our ill-fated allies. It is, therefore, I quote the French army, and in order to shew that the change I recommend in our own, is necessary for the perfection of its discipline, and to save us from the fate of those allies."

Such are the opinions of these gallant officers, but whether they are right or wrong I care not,—such are the opinions of other brave and experienced officers, expressed in language similar to that which you have heard; in such terms as they deemed proper for supporting the opinions they held. Do I mean to argue, because these officers have published what is unfit and improper, that, therefore, the defendants have a right to do the same? Am I foolish enough? Do I know so little of the respect due to your understandings? Am I so little aware of the interruption I should instantly and justly meet from the learned and noble judge, who presides at this trial, were I to attempt urging such a topic as this? Do I really dare to advance what would amount to no less than the absurd, the insane proposition, that if one man has published a libel, another man may do so too? On the contrary, my whole argument is at an end, if these are libels. If

General Stewart and Sir Robert Wilson have exceeded the bounds of propriety, and those passages which I have read from their works are libels, their publication by them would form not only no excuse for the defendants, but would be an aggravation of their fault, if I, their counsel, had ventured, in defending one libel, to bring other libels before you. But it is because I hold, and you must too, that these officers are incapable of a libellous intention; because you well know that these officers, when they wrote in such terms, were incapable of the design of sowing dissention among the troops, and deterring men from entering into the army; it is because you know that, of all the men in this Court and in this nation, there are no two persons more enthusiastically attached to the country and the service; it is because you know as well as I do, that no two men in England are more entirely devoted to the interests of the British army, or bear a deadlier hate to all its enemies; it is because you must feel that there is not an atom of pretext for charging them with such wicked intentions, or for accusing them of a libellous publication; it is for this reason, and for this alone, that I have laid before you what they have thought and written upon the subject matter of the composition which you are now trying. I entertain no small confidence that you are prepared to go along with me, in my conclusion, that, if they could publish such things, without the possibility of any man accusing them of libel, the mere fact of these things being published is no evidence of a wicked or seditious intention: that you are, therefore, prepared to view the publication on its own merits; and, considering how others, who could not by possibility be accused of improper motives, have treated the same subject, you will feel it your duty to acquit the defendants of evil intention, when they shall appear to have handled it in a similar manner.

Gentlemen, I entreat you now to look a little towards the composition itself on which the Attorney-general has commented so amply. With respect to the motto, which is taken from an eloquent address of his to a jury upon a former occasion, there is nothing in that, which makes it necessary for me to detain you. In whatever way these words may have originally been spoken, and however the context may have qualified them, even if they bore originally a meaning quite different from that which in their insulated state they now appear to have; I apprehend, that a person assuming, as is the fashion of the day, a quotation from the words of another as a text, may fairly take the passage in whatever sense suits his own purpose. Such at least has been the practice, certainly, from the time of the Spectator—I believe much earlier; nor can the compliance with this custom prove any intention good or bad. A writer takes the words which he finds best adapted to serve for a text, and makes them his motto: some take a line, and even twist it to another meaning, a sense quite opposite to its original signification; it is the most common device, a mere matter of taste and ornament, and is every day practised.

Let us now come to the introduction, which follows the text or motto. The writer, meaning to discuss the subject of military punishments, and wishing to offer his observations on the system of punishment adopted in our army, in order to lay a ground-work for his argument, and in case any reader should say, "You have no facts to produce; this is all mere declamation"—for the purpose of securing such a ground-work of fact as should anticipate and remove this objection; to shew that these military punishments were actually inflicted in various instances, and to prove from those instances the necessity of entering into the inquiry; he states fairly and candidly several cases of the

punishments which he is going to comment upon. He says, "Corporal Curtis was sentenced to receive one thousand lashes, but, after receiving two hundred, was on his own petition permitted to volunteer into a regiment on foreign service." Enough would it have been for the argument to have said, that corporal Curtis had been sentenced to receive one thousand lashes; but the author owns candidly that on receiving two hundred, the prisoner was allowed, and at his own request, to enter into a regiment on foreign service. Then he mentions the case of William Clifford, a private in the seventh royal veteran battalion, who was lately sentenced to receive one thousand lashes; does he stop there? No, he adds the reason; and the reason turns out to be one which, if anything can justify such a punishment, you will admit would be a justification. He says, candidly, what makes against his own argument; he says it was "for repeatedly striking and kicking his superior officer." He adds, that he underwent part of his sentence, by receiving seven hundred and fifty lashes at Canterbury, in presence of the whole garrison. He next mentions another instance of some persons of the 4th regiment of foot, being sentenced to receive two thousand six hundred lashes, and giving the reason, he says, it was "for disrespectful behaviour to their officers." He then states the case of Robert Chilman, a private in the Bearstead and Malling regiment of local militia, who was lately tried, this author tells us, by a court-martial, "for disobedience of orders and mutinous and improper behaviour while the regiment was embodied." His offence he thus sets forth almost as fully as if he was drawing up the charge; nay, I will venture to say, the charge upon which the court-martial proceeded to trial, was not drawn up more strongly and distinctly. He subjoins to these facts the notice, that his authorities are, the London Newspapers.

Having thus laid the foundation and ground-work of his reasoning, he comments upon the subject in words which, as they have been read twice over, once by the Attorney-general, and once by Mr. Lowten, it is unnecessary for me to repeat; I would only beg of you to observe, that, in the course of his argument, he has by no means departed from the rule of fairness and candour which he had laid down for himself in the outset. He brings forward that which makes against him, as well as that which makes for him; and he qualifies and guards his propositions in a way strongly indicative of the candour and fairness of his motives. After having stated his opinion in warm language, in language such as the subject was calculated to call forth; after having poured out his strong feelings in a vehement manner, (and surely you will not say that a man shall feel strongly and not strongly express himself,) must he be blamed for expressing himself as these two gallant officers have done, though, perhaps, in language not quite so strong as theirs? Having thus expressed himself, he becomes afraid of his reader falling into the mistaken notion of his meaning, an error which, notwithstanding the warning, it would seem the Attorney-general has really fallen into, the error of supposing that he had been too much inclined to overlook the errors in the French system, and that he who had argued against our discipline, and in favour of the enemy's, might be supposed too generally fond of the latter. Apprehensive of a mistake so injurious to him, and feeling that it was necessary to qualify his observations, in order to protect himself from such a misconception, he first says, "Let it not be supposed that we intend these remarks to excite a vague and indiscriminate sentiment against punishment by military law." You perceive, gentlemen, that before proceeding to guard his reader against the idea of his general partiality to the

French system, he stops for the purpose of correcting another misrepresentation,—another mistake of his meaning,—into which also the Attorney-general has repeatedly been betrayed this day. The writer, fearing lest he should not have guarded his reader, and especially his military reader if he should have one, against the supposition of his being an enemy to military punishment, in the general, states distinctly, that severe punishment is absolutely necessary in the army; and he proceeds to express himself in words which are nearly the same as those used by the Attorney-general, for the purpose of shewing that there was something enormous in attacking the system of corporal punishment. The Attorney-general says, he is endeavouring to inflame the subjects of this country against the whole penal code of the army; he is endeavouring to take away the confidence of the soldier in those military regulations which must be enforced, while we have an army at all. All this is mere rhetoric,—exactly so thought the author of this work. He was afraid some person might fall into the same mistake, and accordingly he warns them against this error; he says, "Let it not be supposed that we intend these remarks to excite a vague and indiscriminate sentiment against punishment by military law; no; when it is considered that discipline forms the soul of an army, without which it would at once degenerate into a mob; when the description of persons which compose the body of what is called an army, and the situation in which it is frequently placed, are also taken into account, it will, we are afraid, appear but too evident that the military code must still be kept distinct from the civil, and distinguished by great promptitude and severity. Buonaparte is no favourite of ours, God wot!" Then, with respect to the French mode of punishment and our own, he observes, "It may be said he (Buonaparte)

punishes them (his troops) in some manner. That is very true; he imprisons his refractory troops, occasionally in chains, and in aggravated cases he puts them to death." Is this not dealing fairly with the subject? Is this keeping out of sight every thing that makes against his argument, and stating only what makes for it? Is he here mentioning the French military punishments, to prove that we ought to abandon the means of enforcing our military discipline? No! he does not argue so unfairly, so absurdly. His argument did not require it; he states that the French punish their soldiers in a manner which I have no doubt some will think more severe than flogging: he states, that Buonaparte punishes his refractory troops with chains, and with the highest species of all human punishment—with death. This is exactly the argument of the defendants, or of the author of this composition; and it is the argument of all those who reprobate the practice of flogging. They contend that he (Buonaparte) does not, and that we ought not to flog soldiers; but that he punishes them with chains or death, and so ought we. They maintain, and many of the first authorities in this country maintain, and always have maintained, that for those offences for which one thousand lashes are inflicted, death itself should be inflicted, but not flogging; that the more severe but more safe and appropriate punishment is to be preferred. The argument is not used out of compassion to the soldier, not for the purpose of taking part with him. He does not tell him who has been guilty of mutiny, "Your back is torn by the lash; you are an injured man, and suffering unmerited hardships; you who have kicked and beat your officer, ought not to be punished in so cruel a way, as by being tied to the triangles and lacerated with whipcords;"—this is not what he tells the soldier. No! He says, "The punish-

ment you receive is an improper punishment altogether, because it is hurtful to military discipline,—because it wounds the feelings of the soldier, and degrades him in his own estimation,—because it ruins irretrievably many a man who might be reclaimed from irregular courses, and saves the life only, but without retaining the worth of him who, like you, has committed the highest offences; therefore such a punishment is in no instance fit to be inflicted. But do not think that you are to get off without the severest punishment, you, who have been guilty of mutiny: do not think that military punishments ought not to be more severe than the civil; my opinion, indeed, is, that you ought not to be flogged, because there are reasons against that practice, wholly independent of any regard for you; but then I think that you ought for your offences to be confined in chains, or put to death." It is not tenderness towards the soldier; it is not holding up his grievances as the ground for mutiny; it is a doctrine which has for its object the honour of all soldiers: it proceeds from a love of the military service; it is calculated to raise that service, and by raising it, to promote the good of the country. These are the motives, these are the views of this train of argument. Instead of holding out the idle dream, that the soldier ought not to be punished, he addresses himself to the subject, solely on account of the system of which the soldier forms a part; solely on account of the effects which his punishment may produce on the army: but as to the individual soldier himself, he holds the very language of severity and discipline; he tells him in pretty plain, nay, in somewhat harsh terms, that strictness is necessary in his case, and that he must be treated far more rigorously than any other class of the community. Furthermore, he tells him, that a severer punishment than even flogging, is requisite, and that, instead

of being scourged, he ought to be imprisoned for life, or shot. He then goes to another topic, but it is almost unnecessary to proceed farther with the qualifications of his opinion: he says, "We despise and detest those who would tell us, that there is as much liberty now enjoyed in France as there is left in this country." Is this the argument,—is this the language of a person who would hold up to admiration what our enemies do, and fix the eye of blame only on what happens at home? Is this the argument, from which we are to infer, that he looked across the channel to pry out the blessings enjoyed by our enemies in order to stir up discontent among ourselves? If such had been his intention, was this vehement expression of contemptuous indignation against those who are over-forward to praise the French, likely to accomplish such a purpose? Surely such expressions were more than his argument required. He goes out of his way to reprobate men of unpatriotic feelings; men whose hearts are warm towards the enemies of their country. It was the gist of his argument to shew that the French discipline being superior to ours (as in the opinion of Sir Robert Wilson and General Stewart, it appears to be,) we ought to seek the amendment of our system by availing ourselves of the example of our enemies: but he says, "Do not believe I am against punishing the soldier because I am averse to flogging him, or that I belong to the description of persons who can see nothing in the conduct of our enemies deserving censure." On the contrary, he warns the soldier that rigour of discipline is his lot, and that he must expect the severest infliction of punishment which man can endure; and he purposely, though I admit unnecessarily for his argument, inveighs against too indiscriminate an admiration of France, in words which I shall repeat, because they are important, and because my learned friend

passed hastily over them: "We despise and detest those who would tell us, that there is as much liberty now enjoyed in France as there is left in this country."

Such, gentlemen, is the publication on which you are called upon to decide. It is an argument, qualified by restrictions and limitations, upon an important branch of the military policy of this country. In pursuing this argument, it was necessary the writer should choose a topic liable to misconception,—the comparison of the system of the French army with our own. His argument could not be conducted without a reference to this point. But, to preserve it from abuse, he guards it by the passage I have read, and by others which are to be found in the body of the composition. And he is now brought before you for a libel, on this single ground, that he has chosen such topics as the conduct of his argument obviously required; and used such language as the expression of his opinions naturally called forth.

Gentlemen, I pray you not to be led away by any appearance of warmth, or even of violence, which you may think you perceive, merely upon cursorily looking over this composition. I pray you to consider the things I have been stating to you, when you are reflecting upon the able and eloquent remarks of the Attorney-general; more especially upon the observations which he directed to the peculiarly delicate and invidious topics necessarily involved in the argument. The writer might have used these topics without the qualifications, and still I should not have been afraid for his case. But he has not so used them; he has not exceeded the bounds which any thing that deserves the name of free discussion must allow him. He has touched, and only touched, those points which it was absolutely impossible to pass over, if he wished to trace the scope of his opinions; and those points he had a

right to touch, nay, to dwell upon, (which he has not done), unless you are prepared to say that free discussion means this,—that I shall have the choice of my opinion, but not of the arguments whereby I may support and enforce it,—or that I shall have the choice of my topics, but must only choose such as my adversary pleases to select for me;—unless you are prepared to say that that is a full permission freely to discuss public measures, which prescribes not merely the topics by which my sentiments are to be maintained, but also the language in which my feelings are to be conveyed. If there is a difference in the importance of different subjects—if one person naturally feels more strongly than another upon the same matter,—if there are some subjects on which all men who, in point of animation are above the level of a stock or a stone, do feel warmly;—have they not a right to express themselves in proportion to the interest which the question naturally possesses, and to the strength of the feelings it excites in them? If they have no such power as this, to what, I demand, amounts the boasted privilege? It is the free privilege of a fettered discussion; it is the unrestrained choice of topics which another selects; it is the liberty of an enslaved press; it is the native vigour of impotent argument. The grant is not qualified, but resumed by the conditions. The rule is eaten up with the exceptions; and he who gives you such a boon, and calls it a privilege or a franchise, either has very little knowledge of the language he uses, or but a slight regard for the understandings of those whom he addresses. I say, that in the work before you, no individual instance of cruelty has been selected for exaggerated description, or even for remark; no specific facts are commented on, no statements alluded to in detail. Scarcely are the abuses of the system pointed out; though the eloquent author

might well have urged them as arguments against a system thus open to abuse. It is the system itself which is impeached in the mass; it is the general policy of that system which is called in question; and it is an essential part of the argument, a part necessary to the prosecution of the inquiry, to state that the system itself leads to cruelty, and that cruelty cannot fail to be exercised under it. This is among the most important of the arguments by which the subject must needs be discussed: and if he has a right to hold, and publicly to state an opinion on this subject at all, he has not only a right, but it is his duty to enter into this argument.

But then the Attorney-general maintains, that it tends to excite mutiny, and to deter persons from enlisting in the army. Now, gentlemen, I say that this fear is chimerical; and I now desire you to lay out of your view every thing I have stated from the high authorities whose sentiments you have heard. I request you to leave out of your sight the former arguments urged by me, that you cannot impute any evil intention to their books, because you cannot to their authors. I ask you to consider, whether there is any visible limit to the argument which the Attorney-general has pressed on you, when he asserts that the tendency of this publication is, to excite disaffection among the soldiers, and to prevent the recruiting of the army? I ask you whether any one of those points which are the most frequently discussed, at all times, and by persons of every rank, can in any conceivable way be discussed, if we are liable to be told, that in arguing, or in remarking upon them, our arguments have a tendency to excite sedition and revolt? What are the most ordinary of all political topics? Taxes, wars, expeditions. If a tax is imposed, which in my conscience I believe to be fraught with injustice in its principle, to originate in the most per-

verse impolicy, and to produce the most galling oppression in the manner of its collection; can I speak otherwise than severely? or, however moderately I may express myself, can I speak otherwise than most unfavourably of it, even after the legislature has sanctioned it, and laid it on the country? And yet the Attorney-general may say, "What are you about? You are exciting the people to resistance; you are touching the multitude in the tenderest point, and stirring them up to revolt against the tax-gatherers, by persuading them that the collection of the imposts is cruel and oppressive, and that the government has acted unwisely or unjustly, in laying such burthens on the people." Is it rebellious to speak one's sentiments of the expeditions sent from this country? If a man should say, "You are dispatching our gallant troops to leave their bones in those charnel-houses, as Sir Robert Wilson calls them, which you are constantly purchasing in the West Indies with the best blood of England; you are sending forth your armies to meet, not the forces of the enemy, but the yellow fever; you are pouring your whole forces into Walcheren, to assail, not the might of France, not the iron walls of Flanders, but the pestilential vapours of her marshes."—Such things have been uttered again and again, from one end of the empire to the other, not merely in the hearing of the country, but in the hearing of the troops themselves; but did any man ever dream of sedition, or a wish to excite mutiny being imputed to those millions by whom such remarks have been urged? Do those persons of exalted rank, and of all ranks, (for we all have a right to discuss such measures, as well as the statesmen who rule us); do those men within the walls of Parliament, and without its walls, (for surely all have equally the right of political discussion, whether they have privilege of Parliament or no); do all who

thus treat these subjects purposely mean to excite sedition? Did any one ever think of imputing to the arguments of persons discussing in this way those matters of first-rate national importance, that their remarks had a tendency to produce revolt, and excite the soldiers to mutiny?

There is another subject of discussion which instantly strikes one; it is suggested to you immediately by the passage which I formerly read from Sir Robert Wilson; indeed he introduces it in lamenting the treatment of the soldier. I am referring to those signal, and I rejoice to say, successful efforts made by our best statesmen of all parties, on behalf of the West Indian slaves. Could there be a more delicate topic than this? a more dangerous subject of eloquence or description? Can the imagination of man picture one that ought to be more cautiously, more scrupulously handled, if this doctrine is to prevail, that no person must publish what any person may suspect of having a tendency to excite discontent and rebellion? And yet were not all the speeches of Mr. Pitt, (to take but one example), from beginning to end, pictures of the horrors of West Indian slavery? And did any one in the utmost heat of the controversy, or in the other contentions of party or personal animosity, ever think of accusing that celebrated statesman of a design to raise discontent, or shake the tranquillity of the colonies, although he was addressing his vehement and impassioned oratory to islands where the oppressed blacks were to the tyrannizing whites, as the whole population compared with a few hundred individuals scattered over the West Indian seas? I say, if this argument is good for any thing, it is good for all; and if it proves that we have no right to discuss this subject, it proves that we have no right to discuss any other which can interest the feelings of mankind.

But I dare say, that one circumstance will have struck you, upon hearing the eloquent address of my learned friend. I think you must have been struck with something which he would fain have kept out of sight. He forgot to tell you that no discontent had been perceived, that no revolt had taken place, that no fears of mutiny had arisen—that, in short, no man dreamt of any sort of danger—from the infliction of the punishment itself! The men therefore are to see their comrades tied up, and to behold the flesh stripped off from their bodies, aye, bared to the bone! they are to see the very ribs and bones from which the mangled flesh has been scourged away—without a sentiment of discontent, without one feeling of horror, without any emotion but that of tranquil satisfaction? And all this the by-standers are also to witness, without the smallest risk of thinking twice, after such a scene, whether they shall enter into such a service! There are no fears entertained of exciting dissatisfaction among the soldiers themselves by the sight of their comrade thus treated: there is, it seems, no danger of begetting a disinclination to enlist, among the surrounding peasantry, the whole fund from which the resources for recruiting your army are derived! All this, you say, is a chimerical fear; perhaps it is: I think quite otherwise; but be it even so: let their eyes devour such sights, let their ears be filled with the cries of their suffering comrades; all is safe; there is no chance of their being moved; no complaint, no indignation, not the slightest emotion of pity, or blame, or disgust, or indignation can reach their hearts from the spectacle before them. But have a care how, at a distance from the scene, and long after its horrors have closed, you say one word upon the subject! See that you do not describe these things (we have not described them); take care how you comment upon them (we have not

commented upon them); beware of alluding to what has been enacting (we have scarcely touched any one individual scene); but above all; take care how you say a word on the general question of the policy of the system; because, if you should attempt to express your opinions upon that subject, a single word of argument—one accidental remark—will rouse the whole army into open revolt! The very persons upon whom the flogging was inflicted, who were not to be excited to discontent at the torture and disgrace of their sufferings; they will rebel at once, if you say a word upon the policy of such punishments. Take no precautions for concealing such sights from those whom you would entice into the service; do not stop up their ears while the air rings with the lash; let them read the horrors of the spectacle in the faces of those who have endured it. Such things cannot move a man: but description, remark, commentary, argument, who can hear without instantaneous rebellion?

Gentlemen, I think I have answered the argument of the Attorney-general upon the dangers of such discussions; and in answering it, I have removed the essential part of the Information, without which this prosecution cannot be sustained; I mean the allegation of evil, malicious, and seditious intention, on the part of the author and publisher of the work. I have done,—I will detain you no longer; even if I could, I would not go further into the case. The whole composition is before you. The question which you are to try, as far as I am able to bring it before you, is also submitted to you; and that question is, whether, on the most important and most interesting subjects, an Englishman still has the privilege of expressing himself as his feelings and his opinions dictate?

# CASE

OF

# JOHN DRAKARD.

MARCH 13, 1811.

# SPEECH.

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MAY IT PLEASE YOUR LORDSHIP,—GENTLEMEN OF THE JURY,—You have all of you listened with that attention which the importance of the trial demands, to the very able and ingenious opening of the counsel for the prosecution; and you have heard the various comments which he deemed necessary to support his case, upon the alleged meaning which they have been pleased to impute, and on the various tendencies they have ascribed to the publication whose merits you are to try. I confess I was struck in various parts of that learned gentleman's speech, with the remarkable ingenuity required to twist and press into his service the different passages of the composition on which he commented; and although from knowing as I do, the context of those passages, with which, however, you were not made acquainted; and from knowing, as many of you may, the character of the person accused; and from having besides a little knowledge of the general question of military policy; I had no doubt that the learned counsel would fail to make out the intention which he has imputed to the defendant's publication; yet I am ready to admit, that every thing which ingenuity could do in this way he has done.

I shall not, gentlemen, follow the learned counsel through the different parts of his speech; but in conformity to my own wishes, and in compliance with the positive injunctions of the defendant, I shall attempt to lay before you the composition itself, and to make for him a plain, a candid, and a downright defence. Even if I had the same power of twisting and perverting passages in a direction favourable to my client, which my learned friend has shewn in torturing them against him, I am precluded from using it, not merely by the instructions I have received, but also by my own intimate persuasion that such a line of conduct is far from necessary,—that it would be even hurtful to my case.

For the same reason, I shall abstain from following another example set me by the learned counsel for the prosecution. He alluded, and that pointedly, to a case distantly hinted at in this publication,—that of Cobbett, who was convicted by a jury of publishing a libel; my learned friend took care to remind you of this circumstance, and from a line or two of the publication which you are now to try, he inferred that the subject of that libel was connected with the subject of military punishment. Perhaps, gentlemen, I might with equal justice, and even with better reason, allude to another case more directly connected with the one now in our view. Were I so disposed, I might go out of my way, and leave the merits of the present question; I might find no difficulty, since the example has been set me by my learned friend, and his conduct would justify me should I follow it,—in calling your attention to a case of libel more resembling the present; a case which was very recently tried, but in which a conviction was not obtained. If I were so disposed, I might refer you to a case, in which twelve honest men, unbiassed by any interest, determined that the great bulk of the present publication is not libellous nor wicked. But I will not

avail myself of this advantage; I will rather suffer the experiment to be tried, in the person of this defendant, of the uniformity of juries; whether that which has been shewn by a judicial decision to be innocent at Westminster can be adjudged guilty at Lincoln. I might put it to you whether the intentions of this defendant can be so wicked as they have been represented by my learned friend, when twelve upright men in another court have held his publication to be not only lawful but innocent,—have solemnly pronounced it to be by no means libellous. But, gentlemen, I will wave all these advantages in the outset, and confine your attention exclusively to that which is stated to be the evil of this publication. I beg you not only to lay out of your view the case of Cobbett, who was tried for a libel that has no possible connection with the present case, but I will also ask you to lay out of your view the acquittal of the Hunts, who have been tried for publishing at least three-fourths, and that which is called the most obnoxious part, of the contents of what you are now to try. All this I desire you to lay out of your view. I beg you to confine your attention solely to the merits of this newspaper; and if you shall be of opinion, after I have gone through the publication much less particularly than my learned friend, and without any of his ingenious, and, he must pardon me if I say, his sophistical comments; if, after collecting the defendant's intentions, from comparing the different parts of his dissertation, you should be of opinion that he has wished fairly to discuss a question of great importance and interest to the country; that in discussing this question he has not merely propounded his arguments, but also given vent to those feelings which are utterly inseparable from the consideration of his subject; if, in doing so, he has only used the right and privilege which all men in this free country possess, of discuss-

ing and investigating every subject, and of calling to account the rulers of the country, (which indeed he has not done); if, in discussing the manner in which our rulers, not of the present day only, but of past times also, have conducted themselves, he has only exercised an unquestionable and unquestioned right,—the right of delivering his sentiments and of enforcing them; if this shall appear, you will be instructed by a higher authority than mine, and it will, I am sure, be your pleasure, as it will be your duty, to pronounce the defendant not guilty.

This, gentlemen, then, is the question you have to try; and that you may be enabled to decide it, I shall have little more to do than to request your attention to the publication itself. I do not wish you to forget the comments of the counsel for the prosecution, but I shall take the liberty of laying the defendant's discussion before you more fairly and impartially than it has already been laid before you by that learned gentleman. It was the intention of the writer to take up a subject of high importance,—a question universally interesting,—a case that has often been alluded to by different writers. Gentlemen, he had a right to form his opinion upon this question; he had a right to form it, although it happened to be inconsistent with the policy of the country. I do not say that his is a just opinion; that it is a correct opinion; but it happens to be his opinion, and he has a right to maintain it. If he thinks that the practice which he reprobates is detrimental to the service of this country; that it produces reluctance among the inhabitants to enter into the military state; nay, that it has the worst effect on the country itself; I have yet to learn that there is any guilt in entertaining such an opinion,—I have yet to learn that it is criminal to promulgate such an opinion on such a subject. And if, in support of his sentiments, he resorts to topics of various

descriptions, I shall hold him innocent for so doing, until I am informed from good authority, that a person may hold an opinion, but that he must be mute upon the subject of it; that he may see the question only in a certain point of view; that he must look at it through a certain particular medium; that he must measure the strength of his argument by a scale which my learned friend alone seems to have in his possession,—till I learn all this from a higher authority than the learned counsel, I shall continue to hold the doctrine that it is the privilege of a subject of this country to promulgate such fair and honest arguments as appear to him best adapted to enforce his fair and honest sentiments.

Gentlemen, how does the publisher of this piece proceed to declare and maintain what he believes? He begins, "ONE THOUSAND LASHES." This is a short head, as it were, to the article. It is headed in capital letters, in the same way as other articles in the newspapers are usually headed. If you will look into this very paper, gentlemen, you will find that other articles begin in the same way. Here is "SPAIN AND PORTUGAL," and another article has "FRANCE" for its head, and another "MISCELLANEOUS NEWS." Then follows a motto, or text, which the author had chosen to give force to what was to follow; and, according to the practice of newspaper writers, he took it from the speech of a celebrated law officer, choosing to quote him, because he differed from his opinion. Meaning, therefore, to argue with that officer, he could not have done better than seize hold of a passage from his speech; and he then proceeds to give a statement of the facts and sentiments which are connected with that passage; using various arguments, sometimes even a pleasantry or two, as is no uncommon method when we wish to come at the truth. He then states various instances of the punishment which he condemns, because he is about

to discuss, or rather to shew the impolicy of the particular mode in which military punishments are now so frequently inflicted. The learned counsel for the prosecution told you, that in order to obtain this collection of facts, the defendant had ransacked all the newspapers. Unquestionably, gentlemen, he had ransacked the papers; and if he had not brought together a statement of facts,—if he had not in this way laid the groundwork for what was to follow—what would the ingenuity of that learned gentleman have suggested? You would have been told that all the defendant had said was mere vindictive turbulent clamour against a practice long received, yet but seldom put in force, and that the author had found it impossible to produce any instances of the infliction of that punishment. The author was aware that ingenious men would start this objection against him, and that it would have been a fair one,—therefore he gets rid of it by laying the groundwork of his argument in a statement of facts. The language of what he has done is then simply this.—"Do not think that what I am writing about is a mere chimera. You have the real existence of it before your eyes. It is taking place every day."

Gentlemen, the manner in which he states these facts deserves particular attention. Had it been his desire to put the thing in the worst point of view, in order to support his opinion, he would not have written as he has done; for when a man is heated by his subject, and is looking out for arguments, he seldom finds those that are unfavourable to his opinion; if they are of that complexion, he turns his eyes away from them; and I might refer you to the speech of the learned counsel for the prosecution, as a proof of this. That learned gentleman very carefully turned his eyes off from those passages which would have given a different character to the piece from that which he imputes to it; or if

he did not entirely omit them, he read them over to you in a low tone of voice, which was certainly not the general pitch of his speech. It does appear, then, that this gentleman is not without the very fault which he charges, but charges wrongfully, upon my client. Had the defendant been anxious to impress the opinion upon his readers, that the punishments which he instances were inflicted without cause; had he wished to raise forcibly the indignation of his readers against such punishments,—punishments which he thinks injurious to the army—he would not have dwelt as he has done on the faults of the offenders. But he has not taken such an advantage of the question he was agitating as my friend has taken of him. He has told the circumstances which made against the offenders, and has, in so doing, offered a justification of the punishment. In the first instance, it must be notorious to all of you, gentlemen, that in the case of corporal Curtis, the world was ignorant of the transaction, but that rumours of so unfriendly a kind were abroad, as to induce a patriotic and honourable member to bring the case before the House of Commons. He conceived its circumstances to be different from what they really were, and that great blame attached to the persons who sat on the court-martial. Now, might not the writer of this article have availed himself of the ignorance of the people, in order to give point to his case, and a false interpretation to the conduct of the court-martial? But he does nothing of the kind; for being ignorant of the true state of the case, he avows his ignorance. The case was unknown till Colonel Wardle brought it before Parliament nine or ten days ago. The defendant could not, therefore, have told you why the sentence was passed upon Curtis, but he could have told you the rumours that were then in circulation, and which

now appear to have been ill-founded, but which were then so feasible, as to have become the subject of a motion in Parliament. This case, then, the defendant left on its own merits; in all the other cases he has told you distinctly the occasion that gave rise to the punishment, and so explicitly, that my learned friend, with his usual ingenuity, was desirous of founding a charge upon his statement. Of Clifford he observes, that he was sentenced to receive a thousand lashes, for repeatedly striking and kicking his superior officer. "One thousand lashes!" For what? Might he not have stopped here? Had he been disposed to arraign the sentence of the court-martial as any thing rather than candid and fair, he would have stopped here, and not advanced to mention the occasion of the punishment; but, by the mention of it, he fritters away the whole force of the case that my learned friend would fain make out. He says "for kicking and striking his officer;" and for such an offence no punishment can be too severe, although a particular mode of punishment may be improper. In one point of view, the author loses by this statement, and undoes what he had been attempting to do; but the subject is taken up again in the course of his discussion, and then he tells you, with apparent reasonableness, that whatever the demerit of the offender may be, though he may deserve death, though he may deserve worse than death, yet the punishment appointed for him is wrong in point of policy, though not in point of justice. Other cases also he mentions in his motto, where the men had been found guilty of all the charges against them; and, in the last case, instead of stopping short when he mentions the sentence, which would have aggravated the statement, and left the presumption that it had been executed, he fairly tells you that the lashes were not inflicted, and that the man

was marched to Chatham. It appears, then, that these instances are necessarily given as the groundwork of the discussion, and are given in the fairest manner.

Then comes the discussion itself. I shall not trouble you with again reading much of it, because it has been repeated to you so often. On the perusal you will find that the writer supports his opinion by arguments which are present to the mind of every man who has considered the subject. If they were not so now, they might be by a little recollection, because they have been so forcibly urged out of Parliament and in Parliament, where many members have eloquently spoken against that mode of punishment which prevails in our army, and, it is a melancholy truth, in our army alone. The statement made by this writer is copied, but not copied closely, after that which has proceeded from the pens of some of the ablest officers that have adorned our service. It is an echo, but not a full one, of what has been repeatedly said in the House of Commons. His arguments have been used over and over again, and are, in fact, embodied in the system which the late administration carried into practice. The arguments then used are now employed by the writer, but in a mitigated form, in support of an opinion which he deems it incumbent on him to state strongly to his countrymen. These arguments are various, and are not only applicable to his discussion, but I might state that his discussion could not have been carried on without them. Some of them may be dangerous, but the subject required that the danger should be incurred. One of them is founded on a comparison of ours with the French service. Gentlemen, it is true, and it is a deplorable truth, that the latter is one of the first services in the world in point of discipline, in point of valour, and of every thing that constitutes a great army. Next to our army, there is none in the world

that has gained so many victories, that has been so constantly sure of success; none in which the discipline is so well observed, and where more is made out of the discipline. This is a deplorable fact, and every European power but our own has suffered grievously from its truth. Now, was it not natural, nay, necessary to the argument of this writer, that he should appeal to the French discipline, and ask in the outset, if such punishments as he condemns are inflicted by it? If he had not said that in the French army the practice of flogging is unknown, nothing could have made up for so great and obvious a deficiency in his statement. Would not the answer have been ready in the mouth of every one, "Do not other armies flog as well as we?" Would any one who approves of flogging in our army, and is capable of reading two lines, read thus far, and not stop to exclaim, "Ours is not the only army that flogs its soldiers. France does the same, and a great deal worse; it is a necessary measure; it is the lot of a soldier; he must submit to it; there is no arguing against it." This would have been the answer of all the military men, and of all others who are favourable to the practice.

After the writer of this discourse had introduced his statement, aware that it was of a delicate nature, that he had got upon dangerous ground, and that his motives might be abused, he limits his assertions by the plainest qualifications. "Here," said he, "I enter my protest against any unfair deduction from what I have advanced;"—and if any thing surprised me more than the rest in the speech of my learned friend, it was the manner in which he passed over the limitations of the writer. I shall not go through the whole of them, but will give you a specimen or two. He says, "Let it not be supposed that we intend these remarks to excite a vague and indiscriminating sentiment against

punishment by military law; no, when it is considered that discipline forms the soul of an army, without which it would at once degenerate into a mob,—when the description of persons which compose the body of what is called an army, and the situations in which it is frequently placed, are also taken into account, it will, we are afraid, appear but too evident, that the military code must still be kept distinct from the civil, and distinguished by greater promptitude and severity."

Thus it is that he vindicates himself, and I should have thought he had protected himself from misrepresentation, had I not heard the remarks of the learned counsel, who, with his usual ingenuity, twisted against him the whole of his argument respecting the hardships to which the soldier is exposed. What could he by this proviso have thought to protect himself against, if not against the insinuation that he was exciting the soldiers to mutiny, by telling them that they are hardly dealt by in being placed under military law, in having no trial by jury, and in being subject to such punishments as are known in our army alone? He had this in his eye; he was aware of the probability of the charge; and to protect himself from it, he protests in plain terms against such a construction being put upon his assertions.

In like manner, he was aware of a certain class of men ever ready to cry out, that he was one of those persons who are over officious in promoting the wishes of the enemy, who are always dissatisfied with what is done at home, who love nothing but what is French, and who are fond of raising a comparison, that they may exhibit French customs in a favourable light. In order to caution his readers against such a construction of his words, on the one hand, and to guard them, on the other, against entertaining such wrong, such un-English sentiments, he proceeds in the

words I shall now read to you. "Buonaparte is no favourite of ours, God wot! But if we were to balance accounts with him on this particular head, let us see how matters will stand." He might have appealed to his general conduct since he edited this newspaper; he might have appealed to the bold and manly tone with which he has frequently guarded his readers against the designs and character of Buonaparte; but not satisfied with this, he says explicitly, "Do not think I am holding up the enemy to your approbation; it is upon this one subject, and on this one alone, that I am of opinion there is not so great a difference against his, and in favour of our system." This is the sum and substance of his argument, and this it is both loyal and laudable in him to maintain. Had he been the evil-minded, seditious, libellous person he is described to be, would he have taken occasion to state this? Had he been disposed to hold up Buonaparte's conduct to the admiration of the soldiers, would he, in the passage which I am now going to read to you, have dwelt unnecessarily on the severities of the French discipline? Alluding to the French ruler's treatment of his soldiers, he observes, "It may be said, that he punishes them in some manner,—that is very true; he imprisons his refractory troops, occasionally in chains, and in aggravated cases he puts them to death." Need this writer have told his readers all this? Might he not have stopped when he had said that it was true the French soldier was punished in some manner? Need he have particularised the awful punishments which are inflicted upon that soldier in proportion to his crime? He does, in fact, mention punishments existing under the French discipline, which, in the opinion of the majority, will, I am afraid, appear more severe than flogging. Although it may be his idea that flogging is worse than death, yet, I believe, were we to poll the country round, we

should find but few who would not rather take the punishment of the lash than be sent out to be shot. It may be very well in talk to give the preference to death, but if it come to the point, I believe that there are but few men, nay, but few soldiers, who would not gladly commute it for a flogging. How, then, can it be said of this writer, that he holds up to admiration the system of Buonaparte? Not content with stating that he punishes his troops in some manner, he must add, and unnecessarily for his argument, that he imprisons them in chains, and puts them to death; that is to say, he inflicts upon them the most awful of human punishments.

One would have thought, gentlemen, that this might have been enough to vindicate the writer's intentions, and save him from misrepresentation. Even supposing he had no other readers than soldiers, one would have thought that he had taken precaution enough to prevent mistakes; but he adds another passage, which puts his intentions beyond all doubt, "We despise and detest those who would tell us that there is as much freedom now enjoyed by France as there is left in this country." This, gentlemen, I will read again, because it was hurried over by the learned counsel. "We despise and detest those who would tell us that there is as much liberty now enjoyed in France as there is left in this country. We give all credit to the wishes of some of our great men, yet while any thing remains to us in the shape of free discussion, it is impossible that we can sink into the abject slavery in which the French people are plunged." Gentlemen, can this writer be called a favourer of France? Could stronger language against the system of the French government have been used? He speaks of the "abject slavery" in which the French people are plunged; and he adds in the same strain, and indeed as a very natural conse-

quence, "we do not envy the general condition of French subjects." There are many other passages in this publication, the general purport of which is, that if ever a man had a strong opinion against the character and measures of the ruler of France, at the same time thinking highly of his military discipline,—an opinion which many of our greatest men have held equally and conscientiously—if ever a man sent such an opinion forth to the world, guarded by explanation, and coupled with undeniable facts to support and illustrate it,—it is the person on whose conduct you are now to pronounce your judgment.

With respect to the passage in the middle of this publication, on which much stress has been laid by the counsel for the prosecution, because it was not included in the article for publishing which the Hunts were tried; it contains a statement of the whole of the general arguments usually urged against punishment by flogging, as applied to the case of the militia force. These arguments have been often discussed; they have been heard from the mouth of a Windham downwards; and it has been usually admitted, that whatever may be said for the punishment of flogging in the line, it is peculiarly inapplicable to the militia service. The usual arguments on this subject are forcibly stated by the writer of this piece. In order to illustrate them, he takes an instance, and as the name of Chilman came in his way, he makes use of it. But he guards his readers against supposing that he imputes any blame to the court-martial which tried this man. The writer has no sooner stated a case, and traced the description of it, than he represents it, not as an individual instance, but "as being the probable effects of the system." His language is this, "Do not imagine that I have held up to your particular notice the court-martial which has thus sentenced Chilman. I do not mean to confine your

attention to this particular instance. I take him as I should John-a-Noaks, or any one of the militia who is exposed to the same temptation, who, having been taken from his family by force, after committing certain irregularities, is punished in this dreadful and impolitic way." And by so doing the writer has only followed the example of all the great authorities that have gone before him; their arguments have turned upon the manner in which the militiamen are taken from their homes, and the hardship of exposing them to this odious and cruel punishment, when it was not their choice to enter or not to enter the service; men who, having been accustomed to live under the privileges of the civil law, are dragged away from its protection. And worse words than these have been applied to the practice by our own authorities. The writer, following the example of others, asks you whether it be fair and humane to treat such men with the same severity for a venial offence committed with a friend and companion, as you inflict on him who enters voluntarily into the service, and him who chooses to abandon for the rigours of the military, the mercies of the civil law? —Whether it is equal and just to visit both these with the same cruel punishment? This is the drift and jet of this writer's argument. This is the way in which he was obliged to treat his subject; and in this way he has followed the steps of the great characters in our army who have written before him.

Gentlemen, before I go any farther, I will ask you to consider how far we have already got in the case you are trying? It is admitted, indeed it cannot be denied, that an Englishman has a right, which no power on earth can take away from him, to form an opinion. I do not say on the measures and character of our rulers; that right he certainly has, but it is not involved in the present question, for this author has done no

such thing; it cannot, I say, be denied that an Englishman has the privilege of forming his own opinion upon the policy, expediency, and justice of the system that is adopted by his rulers. Having formed this opinion, it cannot be denied that he has a right to promulgate it; and surely it can no more be denied than the two first propositions can be disputed, that he has a right to support his own opinion by his own arguments, and to recommend its adoption in what he may deem the most efficacious manner. And, gentlemen, let me ask you further, if you will withhold from him the privilege of appealing to such topics as suggest themselves to his mind for the enforcement of his opinion, and even for the ornament of his discourse? Are you to tie him down to any particular set of subjects? Will you say to him, "Have your opinion, but take care how you make it known to the world?" Will you say to him, "Support your arguments, but in so doing, you must choose those we shall point out to you; you must steer clear of every thing that we do not approve of; you must take care to state nothing forcibly, to argue dully, to support your argument feebly, to illustrate it stupidly." Is this free discussion? Is this the way in which you would have that which is done in this country compared with that which is done in France? If we have any privilege more important than another, gentlemen, it is, that we may discuss freely. And is it by this straitened,—this confined,—this emasculated mode of discussing subjects, that every one of us must be regulated, who, when he looks first at home, and then looks to France, is so thankful for being born in this country?

But, gentlemen, I should like to ask, if this is to be the extent of privilege which we are to enjoy? I have hitherto merely inquired how far a man may go in support of his arguments by illustrating them; but if I

were to go a step farther, I should not much exceed the bounds of my duty. Has not a person in this country a right to express his feelings too? Since when is it (I would ask, that we may know the era for the purpose of cursing it! by whom was the change brought about, that we may know the author and execrate his memory,) that an Englishman, feeling strongly on interesting subjects, is prevented from strongly and forcibly expressing his feelings? And are the sufferings of British soldiers the only subject from which the feelings of compassion should be excluded? Living as we do in an age when charity has a wide and an undisputed dominion; in an age when we see nothing but monuments of compassionate feeling from one end of the country to the other; in which, not only at home, but as though that was too confined a sphere, we are ransacking foreign climes for new objects of relief; when no land is so remote, no place so secluded, as not to have a claim on our assistance; no people so barbarous or so strange as not to excite our sympathy: is this a period in which we are to be told that our own soldiers may not claim our mercy? Granting that they are not barbarians,—granting that they are not strangers, but are born amongst us, that they are our kinsmen, our friends, inhabiting the same country, and worshipping at the same altars,—granting that far from being unknown to us, we know them by the benefits they have rendered us, and by the feeling that we owe them a debt of gratitude never to be repaid,—I put it to you, gentlemen, whether we are to exclude them from what we give to all mankind; from the benefit of our feelings and our sympathy; from that universal law of nature which gives to all the victims of cruelty, however distant, however estranged, a home, a settlement, in every compassionate heart? Is this a discovery of the present time? But it is unnecessary to put it more

home to your bosoms. If any one subject is nearer to our hearts than another, or ought to be so to British subjects, it is the condition and treatment of our brave troops, to whom we owe so much, to whom we owe a load of gratitude which was never so heavy as it is at present, and in whom now all our hopes are centered. How, gentlemen, can you visit a person with two years' imprisonment in a dungeon, who, feeling strongly upon a subject of so much interest, expresses his feelings with that warmth which he cannot but feel, and which it becomes him to shew? If he had no such feeling he would have been unworthy of his subject, and having such feeling, had he shrunk from giving vent to it, he would have proved his cowardice: he has, however, been particularly cautious; he has done little more than reason the point; he has not given full vent to his sentiments, but in as much as he has connected his emotions with his argument, you are to take what he has said as a proof of a sincere and an honest heart.

I have already stated to you that the opinions expressed in this publication are not the sentiments of this author alone; but that they were originally broached by the ablest men of the country; men whose high rank in the army render them not the worse witnesses for the defendant. I have now in my hand a work by Sir Robert Wilson—an officer whom to name is to praise—but who, to describe him in proper colours, ought to be traced through his whole career of service, from the day he first entered the army, up to the present time; whose fame stands upon record in almost every land where a battle has been fought by the English troops, whether in this or in the last war. It is perfectly well known to you that on one occasion by his own personal prowess he saved the life of the Emperor of Germany, for which service he received the honour of knighthood. You must all know that

afterwards through the campaign in Germany, when serving with the allied armies, he rendered himself celebrated by his skill and courage; as well as with our gallant army in Egypt. But not merely is he an ardent friend to the British cause; he is known throughout the whole of the British army as one of its most enthusiastic defenders. Far from being a friend to Buonaparte,—of whom and of his friends you have heard so much to-day,—nothing more distinguishes him than an implacable hatred to that enemy of his country. To so great a length has he carried this, that I believe there is no spot of European ground, except England and Portugal, in which he would be secure of his life; so hostile has been his conduct and so plain and direct his charges against Buonaparte, that from the period when he published his well-known work (containing aspersions against that person, which for the honour of human nature one would fain hope are unfounded) he has been held in an abhorrence by the ruler of France, equal to that which Sir Robert Wilson has displayed against him. From 1806, when the plans for the regulation of the army were in agitation, and when he published those opinions which the defendant has now republished, up to the present time, he has not received any marks of the displeasure of the government, but on the contrary has been promoted to higher and to higher honours; and has at length been placed in a distinguished situation near the king himself. During the discussions on our military system, when all men of liberal minds were turning their attention to the subject, with laudable promptitude and public spirit, he addressed a letter to Mr. Pitt, and entitled it, "An Inquiry into the present State of the Military Force of the British Empire, with a view to its reorganization"—that is to say, with a view to its improvement, Sir Robert Wilson, with, perhaps objectionable taste, using the word reorganiza-

tion, which is derived from the French. In this publication, the gallant officer, animated by love for the army, and zeal for the cause of his country, points out what he conceives to be the great defects of our military system; and the greatest of all these he holds to be the practice of flogging. He describes this punishment to be the great cause which prevents the recruiting of the army, and which in one word, produces all manner of mischief to the service—ruining the character of the soldier, and chilling his zeal. I dare say, gentlemen, that you already begin to recollect something which you have heard this day; I dare say you recollect that the defendant is expressly charged with a wish to deter persons from enlisting, and to create dissatisfaction in the minds of the soldiery because he wrote against flogging. But Sir Robert Wilson, you now see, thinks that very opposite effects are to be produced by altering the system. There are fifteen or twenty pages of the pamphlet in my hand which contain an argument to support this opinion. And when you shall hear how the subject is treated by Sir Robert, you will perceive how impossible it is for a person who feels, to avoid, in such a discussion, the use of strong expressions. You will, as I read, see that Sir Robert comes from generals to particulars at once, and describes all the *minutiæ* of military punishment. He first states that, "corporal punishment is a check upon the recruiting of the army;" he then goes on, "My appeal is made to the officers of the army and the militia, for there must be no marked discrimination between these two services, notwithstanding there may be a great difference in their different modes of treating the soldiery. I shall sedulously avoid all personal allusions," (and, gentlemen, you will observe the present defendant has been equally cautious,—not a single personal allusion is to be found throughout his dis-

cussion,) "The object in view is of greater magnitude than the accusation of individual malefactors." (Malefactors, gentlemen, a much stronger word than can be found in the publication of the defendant) "I shall not enter into particulars of that excess of punishment, which in many instances has been attended with the most fatal consequences. I will not, by quoting examples, represent a picture in too frightful a colouring for patient examination." Sir Robert Wilson then alludes to the crimes for which this dreadful punishment is inflicted. He says, "How many soldiers whose prime of life has been passed in the service, and who have behaved with unexceptionable conduct, have been whipt eventually for an accidental indiscretion. Intoxication is an odious vice, and, since the Duke of York has been at the head of the army, officers have ceased to pride themselves upon the insensate capability of drinking; but, nevertheless, flogging is too severe as a general punishment for what has been the practice of officers." Here, you see, gentlemen, the gallant writer brings in aid of his argument an allusion of a much more delicate nature than any that has been made by the defendant. He speaks of the misconduct of officers, and leads the mind to contrast the trivial consequences of misconduct to them with the severe punishment that awaits the soldier guilty of the same offence. A more delicate subject than this cannot be imagined. It is as much as if he said, "Do not punish the poor private so cruelly for a fault which his superior does not scruple frequently to permit, and for which no chastisement is awarded to him." Sir Robert proceeds—"Absence from quarters is a great fault and must be checked: but is there no allowance to be made for young men, and the temptations which may occur to seduce such an occasional neglect of duty?" Gentlemen, do you not immediate-

ly, on hearing this, recur to the language used by the defendant when describing the imaginary case of Robert Chilman? This is exactly his argument; he too, thinks that allowance ought to be made for a young man, particularly one forced into the service, who may, as he says, after a hard day's exercise, meet with some of his companions, and indulge somewhat beyond the bounds of sobriety; and he also thinks what Sir Robert Wilson has thought and published before him, that flogging is a very improper punishment to be inflicted on such a person for such an indiscretion. The pamphlet then in glowing language—language much more forcible than that of the publication which you have to try,—describes the ill effects of flogging. "Corporal punishments never yet reformed a corps, but they have totally ruined many a man, who would have proved under milder treatment, a meritorious soldier. They break the spirit without amending the disposition." And now, I beseech you, mark the high colouring of this officer, after all you have heard denounced against the description of the defendant. "Whilst the lash strips the back, despair writhes round the heart, and the miserable culprit viewing himself as fallen below the rank of his fellow species, can no longer attempt the recovery of his station in society. Can the brave man, and he endowed with any generosity of feeling, forget the mortifying, vile condition in which he was exposed? Does not, therefore, the cat-o-nine-tails defeat the chief object of punishment?"

Sir Robert Wilson then comes to the comparison between the French military discipline and ours, on which so much stress has been laid in support of the prosecution, and you will hear, that this defendant has said nothing on this subject which had not before appeared in the pamphlet I have now in my hand. He says, "Gentlemen who justly boast the most liberal

education in the world, have familiarized themselves to a degree of punishment which characterises no other nation in Europe;" thus, in fact, supplying the defendant with the words of this publication: "Here alone is still perpetrated," &c. In a subsequent paragraph Sir Robert Wilson specifies France by name, so essential was the notice of the French discipline to his argument. He says, "England should not be the last nation to adopt humane improvements. France allows of flogging only in her marine." In conclusion, the gallant officer appeals to the character of the present age, which he says, "is a remarkable epoch in the history of the world. Civilization is daily making the most rapid progress, and humanity is triumphing hourly over the last enemies of mankind. But whilst the African excites the compassion of the nation, and engages the attention of the British legislature,—the British soldier,—their fellow-countryman—the gallant, faithful protector of their liberties, and champion of their honour, is daily exposed to suffer under an abuse of that power, with which ignorance or a bad disposition may be armed."

Gentlemen, I think I may venture to say, that in this passage also you recognize something which you have this day heard before. You may recollect the humble attempt of the humble individual who now addresses you, and who asked you whether those who feel so much for strangers, might not be allowed to feel a little for the defenders of their country. The only difference is, that Sir Robert Wilson's language is more forcible,—more impressive. His picture stands more boldly out, his language throughout is more glowing than that used by the defendant, or by his advocate.

[Mr. Brougham then alluded to the opinions of General Stewart, of the 95th regiment, who, when

a brigadier-general, published a pamphlet, entitled, "Outlines of a Plan for the general Reform of the British Land Forces."]

This officer first asks, "How will the several parts of our present military discipline be reconciled to common sense, or to any insight into men and things?" and then proceeds to specify the errors in our system which cannot be so reconciled. The chief of these is the mode of punishment, which, it should seem, every friend to the British army unites to condemn. He says, "The frequent infliction of corporal punishment in our armies tends strongly to debase the minds and destroy the high spirit of the soldiery; it renders a system of increasing rigour necessary; it deprives discipline of the influence of honour, and destroys the subordination of the heart, which can alone add voluntary zeal to the cold obligations of duty." Again,—"The perpetual recurrence to the infliction of infamy on a soldier by the punishment of flogging, is one of the most mistaken modes for enforcing discipline which can be conceived." And then, gentlemen, as if there were some fatality attending the discussion of this question,—as if there was something which prevented any one's touching the subject without comparing the military discipline of France with our own,—General Stewart is scarcely entered on his argument before he is in the middle of this comparison. He says, "In the French army a soldier is often shot, but he rarely receives corporal punishment, and in no other service is discipline preserved on truer principles." You thus hear, gentlemen, what General Stewart says upon the superior discipline of the French army; he holds it up as a pattern to our service,—a service in which he is one of the most distinguished individuals.

But lest it should be said that these were young

officers (although were we to reckon their campaigns, or even their victories, we might esteem them old)—lest deference may be denied to their opinions because deficient in experience,—and, above all, to shew you that this subject, the more it is considered, the more does it teem with vindications of the defendant,—to shew you, that it is a subject calculated not only to animate the feelings of the young, but even to melt the chill of age,—to satisfy you that, although emotion may have generally become blunt under the pressure of years, yet this is more than compensated for by the longer experience of the mischiefs which arise from the horrible system of flogging, an experience which occasions the deliberate judgment of the old to rival the indignation of the youthful,—I will now produce to you the publication of a veteran,—a publication also intended to point out, for the purpose of doing away with them, these defects which tarnish our military discipline. I allude to a work from the pen of an officer in the highest ranks of the service—Lieutenant-general Money—who, since the writing of that work, has been promoted to the station of a full general. You shall now hear what he says on the subject of flogging; he whose years are numerous as his services, and who is esteemed one of the strictest disciplinarians on the staff: an officer to whom the command of a district has been entrusted, a signal proof of the confidence reposed by government in his honour and military skill. You have been told that attacking the scourge as applied to the backs of our soldiers, has a tendency to injure the army, and to deter persons from entering into it; General Money, you will find, speaks directly to these points, and you will find him declaring, that this practice which our author condemns, does itself occasion desertion, and deters persons from entering into the military service of their country. The publication to which I allude is, "A letter to the right honourable William

Windham, on the defence of the country at the present crisis, by Lieutenant-general Money." He says, "I beg leave, Sir, to submit to you, and to his Majesty's ministers a measure, the adoption of which will, in the opinion of every military man I have conversed with on the subject, bid fair to put a stop to desertion." This measure, which in the opinion of every military man is likely to produce so desirable an effect, you will find to be neither more nor less than the measure which this defendant recommends, and has exerted himself to bring about, namely the discontinuance of flogging. He goes on—"When a man deserts, and he is taken, he is liable to be shot: that, indeed, is seldom inflicted for the first offence, but he is punished in a manner that is not only a disgrace to a nation that boasts of its freedom and its humanity, but is an injury to the recruiting our army. It strikes such a terror into the peasantry of the country. The culprit is tied up to the halberts, in the presence of the whole regiment, and receives six or eight hundred lashes, sometimes a thousand, He faints!—he recovers, and faints again!!—and some expire soon after the punishment! It wounds my feelings when I reflect on the dreadful sufferings of men I have seen and been obliged to see, thus cruelly punished; and what other epithet can be used than cruel? I have told men that I wished the sentence had been death; and true it is, that there are men who have preferred death to the disgrace and punishment."

Gentlemen, I put to you these passages out of the different publications, published by those gallant, distinguished, and experienced officers; and I ask you, whether you will send the defendant to a dungeon for doing that which has procured them the highest honours,—the favour of their sovereign, and the approbation of their country?

I intreat you to reflect on the publication which is charged in the indictment with being libellous; and which has been commented on by the gentleman opposite; and I beg you would recal to mind the comments he has made upon it. He has told you it has a tendency, and must have been published with an intention to excite mutiny and disaffection in our army, by drawing a contrast unfavourable to our service when compared with the French; that it will induce the soldiers to join the standard of France and to rebel against their officers; and lastly, that it will prevent persons from entering into the service. Can Sir Robert Wilson, gentlemen, can General Stewart, or can the veteran officer whose very expressions the writer has used, by any stretch of fancy, be conceived to have been actuated by such intentions? Were they such madmen as desire to alienate the men from their officers, and to disincline others from entering into the army of which they were commanders, and of which they were the firmest friends; to indispose men towards the defence of their own country, and lead them to wish for a foreign and a French yoke? Can you stretch your fancy to the thought of imputing to them such motives as these? You see the opinions they have given to the world; with what arguments, and with what glowing, I will even say violent language, they have expressed themselves. And shall it be said that this defendant, who uses language not nearly so strong, has published a work which has such a fatal tendency, or that he was actuated by so infernal an intention? An intention which in these officers would argue downright madness; but an intention which, in the author of this publication, would shew him fit only for the society of demons! Unless you are convinced, not only that what is innocent at Westminster is libellous here, but, that what is commendable in these officers

is diabolical in the defendant, you cannot sentence him to a dungeon for doing that which has obtained the kindness of the sovereign, and the gratitude of the country for those distinguished men.

I have heard so much about invidious topics, about dangerous subjects of discussion ; I have seen so much twisting of expression to give them a tendency to produce disaffection, and I know not what besides, in the people of this country—that I am utterly at a loss to conceive any one subject, whether it relate to military discipline or to civil polity, that is not liable to the same objection. I will put my defence on this ground: If any one of those subjects which are commonly discussed in this country, and particularly of those relative to the army, can be handled in a way to prevent expressions from being twisted by ingenuity, or conceived by some to have a tendency to produce discontent,—if any mode of treating such subjects can be pointed out to me, in which we shall be safe, allowing the argument of my learned friend to be just,—I will give up this case, and confess that the intention of the defendant was that which is imputed to him. Is there, to take an obvious instance, a subject more commonplace than that of the miserable defects which now exist in the commissariat of our army? I only select this because it comes first to my thoughts. Has it not always happened that in the unfortunate necessity of a retreat, all mouths have resounded with the ill-conduct of the commissary? Has it not been said in the hearing of the army and of the country, that the distresses of our troops on a retreat were increased by their want of food, owing to the inadequacy of our commissariat staff? But we have not only been in the habit of blaming particular instances of neglect,—we have also taken upon ourselves to blame the system itself. Nay, we have gone farther ; we have placed our commissariat in

comparison with that of France, and we have openly and loudly given the preference to the enemy's system. And why may not the defendant do the same with reference to another point of military discipline? Can you fancy a subject more dangerous, or which is more likely to occasion mutiny and revolt, than that of provisions, if you tell the soldier that through the neglect of his government he runs the risk of being starved, while in the same breath you add, that Bonaparte's troops are well supplied, through the attention which he pays to this most important branch of a general's duty? Yet, gentlemen, no one has ever been censured, nor has it been said that it was his intention to excite confusion, because he has condemned that delicate part of our military system which relates to providing the soldiers with food.

In truth, we must submit to these discussions, if we would have any discussion at all. Strong expressions may, indeed, be pointed out here and there in a publication on such topics, and one may be more strong than another. When he is heated, a man will express himself warmly. And, am I to be told, that in discussing a subject which interests all men, no man is to express himself with force? Is it the inflammatory tendency of this publication, or is it, in one word, the eloquence with which the writer has treated his subject, that has excited alarm and instigated the present prosecution? If he had handled the matter dully, coldly, stupidly, he might have gone on to the end of time; he would never have heard a breath of censure, seen a line of Information, or produced an atom of effect. If warmth is not to be pardoned in discussing such topics, to what are the feelings of men to be confined?

I shall, perhaps, hear—Confine yourselves to such subjects as do not affect the feelings,—to matters that are indifferent alike to all men; go to arithmetic,—take up abstract points of law,—"tear passion to tatters" upon

questions in addition and subtraction,—be as warm as you please on special pleading,—there is time sufficient for the workings of the heart: but beware of what interests all mankind, more especially your own countrymen; touch not the fate and fortune of the British army. Beware of those subjects which concern the men who advance but to cover themselves with victory, and who retreat but to eclipse the fame of their valour by the yet higher glory of their patient endurance; men who then return to their homes clothed in laurels, to receive the punishment of the lash, which you inflict on the meanest and most unnatural malefactors! Let us hear nothing of the "charnel houses of the West Indies," as Sir Robert Wilson calls them, that yawn to receive the conquerors of Corunna! Beware of touching on these points; beware of every thing that would animate every heart; that would make the very stones shudder as they re-echo your sound, and awaken the rocks to listen and to weep! You must not treat such subjects at all, or else you must do it coolly, regularly, gradually, allowing yourselves to glow by some scale, of which my learned friend is no doubt in possession; you must keep to a line which is so fine that no eye but his can perceive it.

This may not be! this must not be! While we continue to live in England it may not be; while we remain unsubdued by that egregious tyrant, who persecutes all freedom, with a rancour which only oppressors can know; that tyrant against whom the distinguished officers I nave been quoting, wage a noble and an efficient resistance, and against whom this defendant, in his humbler sphere, has been zealous in his opposition;—that tyrant whose last and most highly prized victory is that which he has gained over the liberty of discussion. Yes, gentlemen, while that tyrant enslaves his own subjects, and turns them loose

to enslave others, no man under his sway dares attempt more than calmly and temperately to discuss his measures. Writers in his dominions must guage their productions according to the standard established by my learned friend, of which he has one duplicate and Buonaparte's attorney-general the other; they must square their argument according to that rule; and adjust the warmth of their language to a certain defined temperature. When they treat of the tyrant's ambitious and oppressive policy; when they treat of the rigours of his military conscription; they must keep to the line which has this day been marked out in this court. Should they go beyond that line,—should they engage in their subject with an honest zeal, and treat it with a force likely to gain conviction,—that is to say, should they treat it after the manner of the writer of this composition which is now before you,—they may lay their account with being dragged forth to be shot without a trial, like the unhappy bookseller of Nuremberg, or with being led in mockery to a court, and after the forms of a judicial investigation are gone through, consigned by the decision of the judges to years of imprisonment.

And yet, gentlemen, there is some excuse for Buonaparte, when he acts in this manner. His government, as he well knows, is bottomed in injustice and cruelty. If you search and lay bare its foundation, you must necessarily shake it to its centre,—its safety consists in silence and obscurity! Above all, is it essential to its power that the cruelty of his military system should not be attacked, for on it does he rest his greatness. The writer, therefore, who should treat in a nervous style of the rigour of his conscription, could expect nothing but severe punishment.

But happily, things in this country are a little different. Our constitution is bottomed in law and in

justice, and in the great and deep foundation of universal liberty! It may, therefore, court inquiry. Our establishments thrive in open day—they even flourish surrounded and assailed by the clamour of faction. Our rulers may continue to discharge their several duties, and to regulate the affairs of the state, while their ears are dinned with tumult. They have nothing to fear from the inquiries of men. Let the public discuss,—so much the better. Even uproar is wholesome in England, while a whisper may be fatal in France!

But you must take it with you, in deciding on the merits of this publication, that it is not upon our military system that the defendant has passed his reflections,—it is not our military system that he condemns. His exertions are directed to remove a single flaw which exists on the surface of that system,—a speck of rottenness which mars its beauty, and is destructive of its strength. Our military system in general, he admires in common with us all; he animadverts upon a taint and not upon its essence; upon a blot which disfigures it, and not upon a part of its structure. He wishes you to remove an excrescence which may be pulled away without loosening the foundation, and the rest will appear the fairer, and remain so much the sounder and more secure.

You are now, gentlemen, to say by your verdict whether the mere reading of this publication,—taking all its parts together,—not casting aside its limitations and qualifications, but taking it as it appears in this paper, you are now to say, whether the mere perusal of it in this shape is likely to produce those effects which have been described by the counsel for the prosecution,—effects which have never yet been produced by the infliction of the punishment itself. This consideration, gentlemen, seems to deserve your very par-

ticular attention. If you can say aye to this, you will then bring your verdict against the defendant,—and not only against him, but against me, his advocate, who have spoken to you much more freely than he has done,—and against those gallant officers who have so ably condemned the practice which he condemns,—and against the country which loudly and rightfully demands an attention to its best interests,—and against the stability of the British Constitution!

# SPEECHES

IN DEFENCE OF

# HER MAJESTY QUEEN CAROLINE.

# INTRODUCTION.

## STATE OF PUBLIC OPINION.—THE MILAN COMMISSION.

FEW events have excited a more deep and general interest among the people of England, than the arrival of Queen Caroline in June 1820, and the proceedings which the king, her husband, immediately compelled his ministers, most reluctantly, most clearly against their own fixed opinions, and therefore most certainly against their duty, to institute against Her Majesty, for the purpose of degrading her and dissolving the marriage. Nor was there the least difference of opinion in the country, whether among those who sided with the Queen, or those who blamed her most, upon the injustice and intolerable cruelty of this conduct on the King's part. No one pretended to doubt that, from the time of her first coming to England, and her marriage with the Prince of Wales, she had been treated as no wife before ever was, and that after a few months permission to reside nominally under the same roof, but without enjoying any other rights of a wife, she had been compelled to live apart from her husband, and had even received a written notice from him that this separation must be considered as for life. That every engine of annoyance had been set in motion to render her life miserable was also universally known; and every one was aware, that, after all temptations had been thrown in the way to seduce her from her conjugal

duty, that a pretext might be obtained for justifying the continual ill treatment of which she was the victim, she had triumphed over all those arts, escaped those snares, and been declared guiltless by a secret tribunal appointed in 1806, to try her behind her back, without any one present on her part, and composed of the political and personal friends of the Prince.

Wherefore, when it was asserted that during her residence on the continent, whither she had by a continuance of the same persecution been at last driven, her conduct had been watched and found incorrect, all men said, that if blame there was, a far larger share of it fell on her royal husband than on herself. But when it was found that he, the wrong-doer, was resolved to vent upon his victim the consequences of his own offences,—when it was known that he whose whole life since his marriage, had been a violation of his marriage vows, was determined to destroy his consort after deserting and ill-using her—and when it was announced that his design was, to obtain a release from the nuptial ties, which had never for an hour held him fast, on the pretence of the party so deeply injured by his inconstancy and his oppressions having at length fallen into the snares set for her—the public indignation knew no bounds, and all the people with one voice exclaimed against a proceeding so indecently outraging every principle of humanity and of justice. Whether the facts alleged were true or false, the people never gave themselves a moment's trouble to inquire; and if the whole case should be confessed or should be proved, it was quite the same thing; he who had done the wrong had no right to take advantage of it, and if every one tittle of the charges made, had been admitted by the

party accused, the people were resolved to stand between her and her persecutor's injustice.

An attempt was made to hurry the House of Commons into the consideration of the subject, before time could be given for that expression of feeling in the country, which the King's friends were well aware must speedily become loud and general. But the Queen's friends were not to be thrown off their guard. Messrs. Brougham and Denman, her Attorney and Solicitor-general, were fully prepared for this sudden movement. It was most signally discomfited. A delay of some days was forced upon the government by the Queen's Attorney-general entering unexpectedly at large into the whole case; and Mr. Canning, to his infinite honour, bore such testimony to the virtues and accomplishments of the illustrious princess, whose honour, whose station, and indeed whose life was assailed, that a division among the ministers was plainly indicated.

The temper and disposition of the house on this memorable occasion, was observed to be anxiously watched by the King's friends; and the Duke of Wellington sat the whole night under the gallery an attentive listener, and with frequent communications to and from those more immediately engaged in the conflict. All men now felt deep regret that this illustrious person had only of late betaken himself to the pursuits of civil life; for his penetrating sagacity, as well as his honourable feelings, would have been an ample security against suffering such a course as the King seemed bent upon pursuing, had his Grace been in a position to exercise his proper authority over his colleagues and his master, and to sway their councils as he has since done upon the most important occasions. Nor would the same

security have been wanting for the country, had Lord Wellesley fortunately been in his appropriate position, at the helm of affairs. No one was calculated to have such influence over the royal mind; and no one would more certainly have exerted it in the direction which the best interests of the country, as well as the King's own honour, so plainly pointed out. But the counsels of inferior men prevailed; or rather, the resistance of inferior minds only was opposed to the vehemence of the royal will; and it was determined that a bill of pains and penalties should be introduced with all the influence of the crown, for the purpose of dissolving the marriage and degrading the Queen-consort from her exalted station. The offence alleged against her, being adultery, would have been high treason had it been committed within the realm. There were doubts among lawyers whether or not it could be so considered if committed abroad, and certainly the whole proceeding was sufficiently encumbered with difficulties to make its authors anxious that whatever provision loaded it with additional obstacles should be avoided. Accordingly no question was made of higher penalties than degradation and divorce.

It would be needless to enter into the details of this unparalleled and most disgraceful affair. It is enough if we run over the heads merely of its history. The decided repugnance of the House of Commons to the whole proceeding, compelled the ministers to defer the appointment of a select committee, for which they had moved in both houses. Mr. Wilberforce, whose patriotism, matured wisdom, and superiority to all factious views, pointed him out as the fit person to resist the threatened mischief, and dictate the terms

which should bind all parties, brought forward a proposition for addressing the Queen, after the negotiation between the Duke of Wellington and Lord Castlereagh on the King's part, Messrs. Brougham and Denman on Her Majesty's, had failed; and the House having agreed to the motion, he as mover, accompanied by Mr. Stuart Wortley,* the seconder, Mr. Bankes, and Sir T. Acland, proceeded to wait upon her with the House's resolutions, declaring its opinion that the Queen might without any sacrifice of her honour, accede to the King's proposal of leaving the country, upon full security being given of enjoying her revenue under the sanction of parliament. Her Majesty received the deputation of the Commons with that great dignity of demeanour which was so habitual to her upon proper occasions, and was altogether unmixed with haughtiness or insolence; but she declined in decided, though kindly terms, acceding to a request which must leave her conduct exposed to suspicion. "As a subject of the state," she said, "I shall bow with deference, and, if possible, without a murmur, to every act of the sovereign authority. But as an accused and injured Queen, I owe to the King, to myself, and to all my fellow-subjects, not to consent to the sacrifice of any essential privileges, or withdraw my appeal to those principles of public justice, which are alike the safeguard of the highest and the humblest individuals."

It now became apparent that the inquiry preparatory to the bill must proceed. Her Majesty petitioned the House of Lords to be heard by her counsel against a secret committee being appointed to examine her con-

* Now Lord Wharncliffe.

duct in her absence; and the counsel were at half an hour's notice heard, but in vain. It was on this occasion that Mr. Denman, in allusion to the well-known adviser of the Milan commission, Sir John Leach, whose counsels, so pleasing to the King, were supposed to be guided by the desire of supplanting Lord Eldon and obtaining the Great Seal, made that memorable quotation from Shakspeare, which was so manifestly delightful to Lord Eldon, and certainly as distasteful to Sir John.

> Some busy and insinuating rogue,
> Some cogging cozening knave to get some office,
> Hath devised this slander.

The Lords then appointed a secret committee, to whom papers in a sealed green bag were delivered. After examining these in secret, they reported that a Bill of Degradation and Divorce should be brought in, which was accordingly done; and it was read a first time on the 5th of July. After rejecting an application from the Queen to be furnished with lists of the witnesses against her, the 17th of August was fixed for proceeding with the case.

On that day this unexampled proceeding commenced, —a proceeding in which the forms of the constitution were observed, while its spirit was outraged at every step,—a proceeding over which the ferocious tyranny of Henry VIII. presided, although the customs of parliament were observed throughout, and which afforded a practical proof, that influence may, with a little delay, effect in the nineteenth century almost all that undisguised and unmitigated prerogative could accomplish in the sixteenth.

The first movement of the Queen's counsel was to

demur, as it were, to the bill, and call upon the House to reject it upon the ground of justice and of all constitutional principles, whether the statements in the preamble were true or false. In this preliminary argument, Mr. Denman was universally allowed to have principally distinguished himself; and his great display of eloquence, raised high expectations of what might be accomplished by him during the subsequent stages of the cause—expectations which, however high, were surpassed by the performance. Every effort, however, was for the present unavailing, either to stop the government in its course, or animate and alarm the peers into a resistance on behalf of the constitution and the country. All without perhaps one exception, both of the government and of both Houses, abhorred the measure; and if they could have been sure that throwing it out immediately, would not have occasioned a change of ministry, assuredly the bill never would have remained one hour in existence. But then, as in much later times, the great fear was of letting in the opposition; and Tories were daily seen abandoning their whole principles, upon the pretence that they had no other way of preventing what, to their eyes, seemed the most formidable of all events,—exactly as in the present day we have seen Whigs giving up their most sacred opinions one after another, and attaching not the weight of a feather to retrenchment, and popular rights, and the progress of reform, and the rights of colonies, and the maintenance of peace, and the extinction of Slavery, and the prevention of the Slave Trade itself, when weighed in the balance against the one evil of a change which should let in their adversaries, and turn out their patrons from the dispensation of court favour.

The preliminary objection, in the nature of a demurrer, being overruled, the bill proceeded; that is, the case against the Queen was opened, and witnesses were examined to prove it, after the Attorney-general had opened the charge in a long speech of minute detail,—a course which was extremely ill considered by the advocates of the bill, who could not at all trust their foreign witnesses; for being guided in their detailed statements wholly by the result of the Milan commission, the manifest discrepancies between the answers which their questions shewed that they expected to get, and those actually given, afforded constant occasion to their adversaries to cast discredit upon the testimony. It ought to be mentioned, as one of the manifold irregularities of this proceeding, that now for the first time members of one house acted as counsel at the bar of the other, in a bill on which they must, if it passed that other, themselves come to sit as judges. But the extreme inconvenience of the Attorneys and Solicitors-general of both King and Queen going out of Parliament during so many months as the case might last, suggested the expediency of the House of Commons passing a resolution which permitted its members to appear as counsel in this bill; and Mr. Williams and Dr. Lushington, who were of counsel for her Majesty, availed themselves of this leave, as well as Mr. Brougham and Mr. Denman. Mr. Sergeant Wilde was not then a member of Parliament.

There is no occasion to characterise the evidence which was produced for the bill, otherwise than as it has been since described, in colours which, though they may be strong, are only so because they are so strong as to retain their likeness to the original they represent.

"The Milan Commission proceeded under this superintendence; and as its labours so were their fruits exactly what might have been expected. It is the first impression always arising from any work undertaken by English hands and paid for by English money, that an inexhaustible fund is employed, and with boundless profusion; and a thirst of gold is straightway excited which no extravagance of liberality can slake. The knowledge that a board was sitting to collect evidence against the Queen, immediately gave such testimony a high value in the market of Italian perjury; and happy was the individual who had ever been in her house or admitted to her presence: his fortune was counted to be made. Nor were they who had viewed her mansion, or had only known the arrangements of her villa, without hopes of sharing in the golden prize. To have seen her pass, and noted who attended her person, was a piece of good luck. In short, nothing, however remotely connected with herself, or her family, or her residence, or her habits, was without its value among a poor, a sanguine, and an imaginative people. It is certain that no more ready way of proving a case, like the charge of criminal intercourse, can be found, than to have it first broadly asserted for a fact; because this being once believed, every motion, gesture, and look is at once taken as proof of the accusation, and the two most innocent of human beings may be overwhelmed with a mass of circumstances, almost all of which, as well as the inferences drawn from them, are really believed to be true by those who recount or record them. As the treachery of servants was the portion of this testimony which bore the highest value, that, of course, was not difficult to procure; and the

accusers soon possessed what, in such a case, may most truly be said to be *accusatori maxime optandum*—not, indeed, *confitentes reos*, but the man-servant of the one, and the maid-servant of the other supposed paramour. Nor can we look back upon these scenes without some little wonder how they should not have added even the *confitentem reum*; for surely in a country so fertile of intriguing men and abandoned women,—where false oaths, too, grow naturally, or with only the culture of a gross ignorance and a superstitious faith,—it might have been easy, we should imagine, to find some youth, like Smeatton in the original Harry the Eighth's time, ready to make his fortune, both in money and female favours, by pretending to have enjoyed the affections of one whose good nature and easy manners made the approach to her person no difficult matter at any time. This defect in the case can only be accounted for by supposing that the production of such a witness before the English public might have appeared somewhat perilous, both to himself and to the cause he was brought to prop with his perjuries. Accordingly, recourse was had to spies, who watched all the parties did, and when they could not find a circumstance, would make one; men who chronicled the dinners and the suppers that were eaten, the walks and the sails that were enjoyed, the arrangements of rooms and the position of bowers, and who, never doubting that these were the occasions and the scenes of endearment and of enjoyment, pretended to have witnessed the one, in order that the other might be supposed; but with that inattention to particulars which Providence has appointed as the snare for the false witness, and the safeguard of innocence, pretended to have seen in such directions as would

have required the rays of light to move not straightforward, but round about. Couriers that pried into carriages where the travellers were asleep at grey daylight, or saw in the dusk of dewy eve what their own fancy pictured,—sailors who believed that all persons could gratify their animal appetites on the public deck, where themselves had so often played the beast's part, —lying waiting-women, capable of repaying the kindness and charity that had laid the foundation of their fortune, with the treachery that could rear it to the height of their sordid desires,—chambermaids, the refuse of the streets, and the common food of wayfaring licentiousness, whose foul fancy could devour every mark that beds might, but did not, present to their practised eye,—lechers of either sex, who would fain have gloated over the realities of what their liquorish imagination alone bodied forth,—pimps of hideous aspect, whose prurient glance could penetrate through the keyhole of rooms where the rat shared with the bug the silence of the deserted place,—these were the performers whose exploits the commissioners chronicled, whose narratives they collected, and whose exhibition upon the great stage of the first tribunal of all the earth, they sedulously and zealously prepared by frequent rehearsal. Yet with all these helps to success, —with the unlimited supply of fancy and of falsehood which the character of the people furnished—with the very body-servants of the parties hired by their wages, if not bought with a price,—such an array could only be produced, as the whole world at once pronounced insufficient to prove any case, and as even the most prejudiced of assemblies in the accuser's favour

turned from with disgust.—*Edinburgh Review*, vol. lxvii. pp. 41—43.

On the 9th of September an adjournment was resolved on of about three weeks, and on the 3d of October the House again met, when the counsel for the Queen were heard, and witnesses called on her part. The following speech is Mr. Brougham's defence of her Majesty, which he opened on the first day after the adjournment, and finished on the next. Mr. Denman's summing up of the evidence, and application of it to answer the charges, was a magnificent effort of genius. But there is no possibility of giving more than the justly celebrated peroration, and one or two other passages. The last sentence of all was the subject of much misrepresentation at the time, and has been occasionally since. Nor can it be denied that the want of a few words, especially in a spoken composition on such a subject, rendered this unavoidable. Whoever attentively considers the structure of the sentence, and weighs the force of the words, can have no doubt of the sense; but it is not safe to throw so much upon a single particle, as was thus cast upon the word "even;" and a sentence was wanting to bring home the meaning, by pointing the hearer's attention to the contrast exhibited by our Saviour towards convicted guilt, and human injustice towards proved innocence.

The proceedings of 1820, though they ended in the signal discomfiture of the Queen's enemies, by no means put an end to their persecutions. Although declared innocent by the fate of the bill, which was withdrawn on the 10th of November, after the second reading had been carried by only nine votes, and when it became

manifest that it must be flung out on the next stage, the usual insertion of her Majesty's name in the liturgy was still withheld, and a motion on the subject suggested by Sir Charles Wetherell, a determined, but most honest and consistent, as well as highly-gifted member of the Tory party, was rejected in the House of Commons. In the following summer, the coronation of George IV. was proceeded with, and of course the Queen claimed to be crowned, as all her royal predecessors had been; but this, too, was peremptorily refused, and the annoyance occasioned by these vexatious proceedings, coming after so long a life of ill-treatment, is generally believed to have hastened her end. The mournful inscription which she desired to have placed upon her coffin is well known,—"Caroline of Brunswick, the murdered Queen of England."

The last of the following speeches relates to the subject of the coronation, her Majesty's claim having been referred to the Privy Council, which heard the argument at a very crowded meeting, attended by the Attorney and Solicitor-general for the King, as well as those for the Queen, the former law-officers, however, acting as assessors to the board, the latter appearing at the bar. The Earl of Harrowby, as Lord President, was in the chair; but besides many lay lords, he was assisted by the Lord Chancellor, the Chief Justices, and other heads of the law who belonged to the Privy Council.

# SPEECH

IN

# THE CASE

OF

# QUEEN CAROLINE.

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27051

# SPEECH.

MAY IT PLEASE YOUR LORDSHIPS,—The time is now come when I feel that I shall truly stand in need of all your indulgence. It is not merely the august presence of this assembly which embarrasses me, for I have oftentimes had experience of its condescension,—nor the novelty of this proceeding that perplexes me, for the mind gradually gets reconciled to the strangest things,—nor the magnitude of this cause that oppresses me, for I am borne up and cheered by that conviction of its justice, which I share with all mankind; but, my lords, it is the very force of that conviction, the knowledge that it operates universally, the feeling that it operates rightly, which now dismays me with the apprehension, that my unworthy mode of handling it, may, for the first time, injure it; and, while others have trembled for a guilty client, or been anxious in a doubtful case, or crippled with a consciousness of some hidden weakness, or chilled by the influence, or dismayed by the hostility, of public opinion, I, knowing that here there is no guiltiness to conceal, nor anything, save the resources of perjury, to dread, am haunted with the apprehension that my feeble discharge of this duty may for the first time cast that cause into doubt, and may turn against me for condemnation those millions of your lordships' countrymen whose jealous eyes are now watching us, and who

will not fail to impute it to me, if your lordships should reverse the judgment which the case for the charge has extorted from them. And I feel, my lords, under such a weight so troubled, that I can hardly at this moment, with all the reflection which the indulgence of your lordships has accorded to me, compose my spirits to the discharge of my professional duty, under the pressure of that grave responsibility which accompanies it. It is no light addition to this feeling, that I foresee, though happily at some distance, that before these proceedings close, it may be my unexampled lot to discharge a duty, in which the loyalty of a good subject may, among the ignorant, among the thoughtless,—certainly not with your lordships for a moment,—suffer an impeachment.

My lords, the Princess Caroline of Brunswick arrived in this country in the year 1795,—the niece of our sovereign, the intended consort of his heir-apparent, and herself not a very remote heir to the crown of these realms. But I now go back to that period, only for the purpose of passing over all the interval which elapsed between her arrival then and her departure in 1814. I rejoice that, for the present at least, the most faithful discharge of my duty permits me to draw this veil; but I cannot do so without pausing for an instant, to guard myself against a misrepresentation to which I know this cause may not unnaturally be exposed, and to assure your lordships most solemnly, that if I did not think that the cause of the Queen, as attempted to be established by the evidence against her, not only does not require recrimination at present,—not only imposes no duty of even uttering one whisper, whether by way of attack, or by way of insinuation, against the conduct of her illustrious husband; but that it rather prescribes to me, for the present, silence upon this great and painful head of the case,—I solemnly assure your

lordships, that but for this conviction, my lips on that branch would NOT be closed; for, in discretionally abandoning the exercise of the power which I feel I have, in postponing for the present the statement of that case of which I am possessed, I feel confident that I am waving a right which I possess, and abstaining from the use of materials which are mine. And let it not be thought, my lords, that if either now I did conceive, or if hereafter I should so far be disappointed in my expectation that the case against me will fail, as to feel it necessary to exercise that right,—let no man vainly suppose, that not only I, but that any, the youngest member of the profession would hesitate one moment in the fearless discharge of his paramount duty. I once before took leave to remind your lordships,—which was unnecessary, but there are many whom it may be needful to remind,—that an advocate, by the sacred duty which he owes his client, knows, in the discharge of that office, but one person in the world, THAT CLIENT AND NONE OTHER. To save that client by all expedient means,—to protect that client at all hazards and costs to all others, and among others to himself,—is the highest and most unquestioned of his duties; and he must not regard the alarm—the suffering—the torment—the destruction—which he may bring upon any other. Nay, separating even the duties of a patriot from those of an advocate, and casting them, if need be, to the wind, he must go on reckless of the consequences, if his fate it should unhappily be, to involve his country in confusion for his client's protection!

But, my lords, I am not reduced to this painful necessity. I feel that if I were to touch this branch of the Case now, until any event shall afterwards shew that unhappily I am deceiving myself—I feel that if I were now to approach the great subject of recrimination, I should seem to give up the higher ground of

innocence on which I rest my cause; I should seem to be Justifying when I plead Not Guilty; I should seem to argue in extenuation and in palliation of offences, or levities, or improprieties, the least and the lightest of which I stand here utterly to deny. For it is false, as has been said—it is foul and false as those have dared to say, who, pretending to discharge the higher duties to God, have shewn, that they know not the first of their duties to their fellow-creatures—it is foul, and false, and scandalous in those who have said (and they know that it is so who have dared to say), that there are improprieties admitted in the conduct of the Queen. I deny that the admission has been made. I contend that the evidence does not prove them. I will shew you that the evidence disproves them. One admission, doubtless, I do make; and let my learned friends who are of counsel for the Bill take all the benefit of it, for it is all that they have proved by their evidence. I grant that her Majesty left this country and went to reside in Italy. I grant that her society was chiefly foreign. I grant that it was an inferior society to that which she once enlightened and graced with her presence in this country. I admit, my lords, that while here, and while happy in the protection—not perhaps of her own family, after the fatal event which deprived it of its head; but while enjoying the society of your lordships and the families of your lordships,—I grant that the Queen moved in a more choice, in perhaps a more dignified society, than she afterwards adorned in Italy. And the charge against her is, that she has associated with Italians, instead of her own countrymen and countrywomen; and that, instead of the peeresses of England, she has sometimes lived with Italian nobility, and sometimes with persons of the commonalty of that country. But, who are they that bring this charge, and

above all, before whom do they urge it? Others may accuse her—others may blame her for going abroad —others may tell tales of the consequences of living among Italians, and of not associating with the women of her country, or of her adopted country; but it is not your lordships that have any right to say so. It is not you, my lords, that can fling this stone at Her Majesty. You are the last persons in the world—you, who now presume to judge her, are the last persons in the world so to charge her; for you are the witnesses whom she must call to vindicate her from that charge. You are the last persons who can so charge her; for you, being her witnesses, have been also the instigators of that only admitted crime. While she was here, she courteously opened the doors of her palace to the families of your lordships. She graciously condescended to mix herself in the habits of most familiar life, with those virtuous and distinguished persons. She condescended to court your society, and, as long as it suited purposes not of hers,—as long as it was subservient to views not of her own—as long as it served interests in which she had no concern,—she did not court that society in vain. But when changes took place—when other views arose—when that power was to be retained which she had been made the instrument of grasping—when that lust of power and place was to be continued its gratification, to the first gratification of which she had been made the victim—then her doors were opened in vain; then that society of the Peeresses of England was withholden from her; then she was reduced to the alternative, humiliating indeed, for I say that her condescension to you and yours was no humiliation.—She was only lowering herself, by overlooking the distinctions of rank to enjoy the first society in the world, —but then it pleased you to reduce her to what was really humiliation,—either to acknowledge that you

had deserted her,—to seek the company of those who now made it a favour which she saw they unwillingly granted, or to leave the country and have recourse to other society inferior to yours. I say, then, my lords, that this is not the place where I must be told—it is not in the presence of your lordships I must expect to hear any one lift his voice to complain,—that the Princess of Wales went to reside in Italy, and associated with those whose society she neither ought to have chosen, nor would have chosen—certainly would not have chosen, perhaps ought not to have chosen—had she been in other and happier circumstances.

In the midst of this, and of so much suffering as to an ingenuous mind such conduct could not fail to cause, she still had one resource, and which, for a space, was allowed to remain to her—I need hardly say I mean the comfort of knowing that she still possessed the undiminished attachment and grateful respect of her justly respected and deeply lamented daughter. An event now took place which, of all others, most excites the feelings of a parent: that daughter was about to form a union upon which the happiness—upon which, alas! the Queen knew too well how much the happiness, or the misery of her future life must depend. No announcement was made to her Majesty of the projected alliance. All England occupied with the subject—Europe looking on with an interest which it certainly had in so great an event—England had it announced to her; Europe had it announced to her—each petty German prince had it announced to him; but the one person to whom no notice of it was given, was the mother of the bride who was to be espoused; and all that she had done then to deserve this treatment was, with respect to one of the illustrious parties, that she had been proved, by his evidence against her, to be not guilty of the charge he launched at her behind her back; and, with respect

to his servants, that they had formerly used her as the tool by which their ambition was to be gratified. The marriage itself was consummated. Still, no notice was communicated to the Queen. She heard it accidentally by a courier who was going to announce the intelligence to the Pope, that ancient, intimate, much-valued ally of the Protestant Crown of these realms, and with whose close friendship the title of the Brunswicks to our Crown is so interwoven. A prospect grateful to the whole nation, interesting to all Europe, was now afforded, that the marriage would be a fruitful source of stability to the royal family of these realms. The whole of that period, painfully interesting to a parent as well as to a husband, was passed without the slightest communication; and if the Princess Charlotte's own feelings had prompted her to open one, she was in a state of anxiety of mind and of delicacy of frame, in consequence of that her first pregnancy, which made it dangerous to have maintained a struggle between power and authority on the one hand, and affection and duty on the other. An event most fatal followed, which plunged the whole of England into grief; one in which all our foreign neighbours sympathized, and while, with a due regard to the feelings of those foreign allies, and even of strange powers and princes with whom we had no alliance, that event was speedily communicated by particular messengers to each, the person in all the world who had the deepest interest in the event—the person whose feelings, above those of all the rest of mankind, were most overwhelmed and stunned by it,—was left to be stunned and overwhelmed by it accidentally; as she had, by accident, heard of the marriage. But if she had not heard of the dreadful event by accident, she would, ere long, have felt it; for the decease of the Princess Charlotte was communicated to her mother, by the is-

suing of the Milan Commission and the commencement of the proceedings for the third time against her character and her life.

See, my lords, the unhappy fate of this illustrious woman! It has been her lot always to lose her surest stay, her best protector, when the dangers most thickened around her; and, by a coincidence almost miraculous, there has hardly been one of her defenders withdrawn from her, that his loss has not been the signal for an attack upon her existence. Mr. Pitt was her earliest defender and friend in this country. He died in 1806; and, but a few weeks afterwards, the first inquiry into the conduct of Her Royal Highness began. He left her a legacy to Mr. Perceval, her firm, dauntless, most able advocate. And, no sooner had the hand of an assassin laid Mr. Perceval low, than she felt the calamity of his death, in the renewal of the attacks, which his gallantry, his skill, and his invariable constancy had discomfited. Mr. Whitbread then undertook her defence; and, when that catastrophe happened, which all good men lament without any distinction of party or sect, again commenced the distant growling of the storm; for it then, happily, was never allowed to approach her, because her daughter stood her friend, and some there were who worshipped the rising sun. But, when she lost that amiable and beloved child, all which might have been expected here—all which might have been dreaded by her if she had not been innocent—all she did dread—because, who, innocent or guilty, loves persecution? who delights in trial, even when character and honour are safe?—all was at once allowed to burst upon her head; and the operations began with the Milan Commission. And, as if there were no possibility of the Queen losing a protector without some most important scene against her being played in this too real drama, the day which saw the venerable remains

of our revered sovereign consigned to the tomb—of that sovereign who, from the first outset of the Princess in English life, had been her constant and steady defender—that same sun ushered the ringleader of the band of perjured witnesses into the palace of his illustrious successor! Why do I mention these things? Not for the sake of making so trite a remark, as that trading politicians are selfish—that spite is twin-brother to ingratitude—that nothing will bind base natures—that favours conferred, and the duty of gratitude neglected, only make those natures the more spiteful and malignant. My lords, the topic would be trite and general, and I should be ashamed to trouble you with it; but I say this, in order to express once more my deep sense of the unworthiness with which I now succeed such powerful defenders, and my alarm lest my exertions should fail to do what theirs must have accomplished had they survived.

My lords, I pray your attention for a few moments, to what all this has resulted in. It has ended in the getting up of a story, to the general features of which I am now first about to direct the attention of your lordships. But I must begin by praying you to recollect what the evidence has not only not proved, but is very likely to have discharged from the memory of your lordships,—I mean the opening of my learned friend, the Attorney-general. Now, he shall himself describe, in his own words, the plan and the construction of that opening statement. It is most material for your lordships to direct your attention to this; because much of the argument rests on this comparative view. He did not, then, make a general speech, without book, without direction or instruction; but his speech was the spoken evidence; it was the transcript of that which he had before him; and the way in which that transcript was prepared, I leave your lordships to conjecture,

even uninformed to a certain degree as you now must needs be. "I will," said my learned friend—and every one who heard him make the promise, and who knows his strictly honourable nature, must have expected its exact fulfilment—"I will most carefully state nothing which I do not, in my conscience, believe I shall be able to substantiate in proof; but I will also withhold nothing, upon which I have that conviction." I believed the Attorney-general when I heard him promise. I knew that he spoke from his conscience; and now that I see he has failed in the fulfilment, I equally well know that there is but one cause for the failure,—that he told you what he had in his brief, and what had found its way into his brief from the mouths of the witnesses. He could get it in no other way but that. The witnesses who had told falsehoods before in private, were scared from repeating them here, before your lordships. Now, I will give your lordships one or two specimens of this; because I think these samples will enable you to form a pretty accurate estimate, not only of the value of that evidence, where it comes not up to my learned friend's opening, but also to form a pretty good guess of the manner in which that part of it which did succeed was prepared for the purpose. I will merely take one or two of the leading witnesses, and compare one or two of the matters which my learned friend opened, and will not tire you with the manner in which they told you the story.

First, my learned friend said, that the evidence of the Queen's improper conduct would come down almost "to the time at which I have now the honour of addressing your lordships." I am quoting the words of my learned friend, from the short-hand writer's notes. In fact, by the Evidence, that "*almost*" means up to the present time, all but three years; that is to say, all but a space of time exactly equal to that space

of time over which the other parts of the Evidence extend. At Naples, where the scene is laid which is first so sedulously brought before your lordships, as if the first connection between the two parties began upon that occasion,—as if that were the night when the guilty intentions, which they long had been harbouring, but for want of opportunity had not been able to fulfil, were at length gratified,—at Naples, I pray your lordships to attend to the manner in which he opened this first and most important branch of his whole case, and which if it fails, that failure must affect the statement of circumstances, not only in this part of the Evidence, but in all the subsequent stages of it. How does my learned friend open that part of his case? "I shall show you," says he, "that there are clear, decisive marks of two persons having slept in the bed, the night that the Queen came home; the second night she was at Naples, she returned early from the Opera; she went to her own room, from thence she repaired to Bergami's room, where Bergami himself was; the next day she was not visible till an unusually late hour, and was inaccessible to the nobility of Naples." Every one of these assertions, rising one above another in succession and importance, but even the lowest of them of great moment to the case against her Majesty,—every one of them not only is false, but is negatived by the witness produced to support them. Demont gives no "decisive marks,"—she gives a doubtful and hesitating story. With one exception, there is nothing specific, even in what she swears; and with that I shall afterwards come to deal. But she denies that she knew where the Queen went when she first left her own bedroom. She denies that she knew where Bergami was at the time. She says affirmatively that the next morning the Queen was up and alert by the usual time. Not one tittle of evidence does she give, or any

body else, of her having refused access to any one person who called; nor is any evidence given (to make the whole more complete) that any body called that morning at all.

Then come we to that which my learned friend opened with more than even his wonted precision. We know that all the rest was from his instructions. It could be from no other source. He had never been in Italy. Neither he nor my learned friend, the Solicitor-general, have given us any idea of their knowing what sort of country it is; that they know any thing of a Masquerade; that they know any thing of a Cassino. My learned friend has represented as if the being black-balled at that Cassino were ruin to a person's character; forgetting who may be the members of the society at that Cassino; that there may be a Colonel Brown; that it is held at the very place where the Milan Commission was held. "But," says my learned friend, the Solicitor-general, "who ever heard of the wife of a royal prince of this country going disguised to a masquerade?" Who would have thought that, being disguised, and on her way to a masquerade, she did not go in her own state coach, with her livery servants, with a coachman bedizened, with lacqueys plastered, with all the "pomp, pride, and circumstance" of a court or a birth-day, but that she went in a common hired carriage, without the royal arms, without splendor or garb, coming out at the back-door, instead of issuing out of the front door, with all the world spectators? Nay, I only wonder that my learned friend did not state, as an enormity unheard of and inexplicable, that she went to a masquerade in a domino and with a false face! My lords, it was not, therefore, from their own personal observation, certainly not from having been present at these royal recreations of Murat's court, that my learned friends obtained their knowledge of this cause; they have it

from Demont or Majoochi, the witnesses who have been examined again and again; and who have again and again told the same story; but which story being in part founded in fact, they now recollect only the portion that is true, and forget what is untrue.

"Then," says my learned friend, in this instance which I am now going to state, leaving us to our general suspicions as to where he got his knowledge upon the other circumstances, and coming to something more specific, "I am instructed to state," and in another instance, "the witness says" so and so, shewing he was reading the witness's deposition. "I am instructed to state, that the dress which the Princess had assumed, or rather the want of it in part, was extremely indecent and disgusting;" and he adds afterwards, in commenting upon it, that it was of the "most indecent description;" so that she was, on account of that indecency, on account of the disgusting nature of it, by those who actually saw it, hooted from the public theatre. Your lordships will recollect what it came to,—that the Princess was there in a dress that was exceedingly ugly,—the maid Demont said, in a "very ugly" dress; and that was all my learned friend could get her now to assert,—that it was without form and ugly; masques came about her, and she, unknown in her own masque, —for, strange as it may appear to my learned friend, a person at a masquerade endeavours to be disguised,— was attacked from joke or from spite,—oftener from joke than from spite; her own dress being of that ugly description,—for what reason is left to this moment unexplained.

My lords, I should fatigue your lordships if I were to go over other instances,—I shall only mention that at Messina. Voices are said to have been heard. The Attorney-general opened, that at Messina he should prove the Princess and Bergami to have been locked up

in the same room, and to have been heard speaking together. That is now reduced, by the evidence, to certain voices being heard, the witness cannot say whose. At Savona, where my learned friend gives you, as he generally does in his speech, the very day of the month, the 12th of April, he stated, that the only access to the Princess's room was through Bergami's, where there was no bed, but that in the Princess's room there was a large bed. The witness proved only one of those particulars out of three.

Passing over a variety of particulars, I shall give only one or two instances from Majoochi's and Sacchi's evidence. "The Princess remained in Bergami's room a very considerable time," the night that Majoochi swore she went into his room, "and there the witness heard them kissing each other," says the Attorney-general. Majoochi says, she remained there one of the times ten minutes, the other fifteen; and that he only heard a whispering. Now, as to Sacchi. The story as told by my learned friend, from the brief in his hand, and which therefore Sacchi must have told before at Milan, is, that a courier one night returned from Milan, that is, that he, Sacchi, returned as a courier from Milan, for it was he whom he meant,—that finding Bergami out of his own room, he looked about, and saw him come out of the Queen's room undressed,—that all the family were in bed,—that he observed him,—that he spoke to him,—and that Bergami explained it by saying he had gone, hearing his child cry, to see what was the matter, and desired him not to mention any thing about it. Sacchi negatives this, as far as a man speaking to so unusual a circumstance, which, if it had happened, must have forcibly impressed his recollection, can do so. He denies it as strongly as a man can, by denying all recollection of any such particulars, although not for want of examination; for my learned

friend, the Solicitor-general, questions him over and over again, and he cannot get him to come within a mile of such a fact.

Then come we to the disgraceful scenes, as the Attorney-general described them, at the Barona, which he said,—and if they had been as they were represented to him, I doubt not he used a very fair expression,—he did not tell us what they were, but "they were so disgraceful, that it rather made that house deserve the name of a brothel, than of a palace, or a place fit for the reception of her Majesty, or any person of the least virtue or delicacy." Here there is a most entire failure of proof from all the witnesses.

Then we are told, that at Naples the attendants were shocked and surprised by the conduct of the Queen,—that in Sicily no doubt was entertained by them, from what they saw of the familiarities between the parties, that a criminal intercourse was going on there. Not one of those attendants describes that effect to have been produced upon their minds by what they saw. I shall afterwards come to what they did see; but they do not tell you this, though frequently urged and kindly prompted to do it. Then, as to the visiting of the nobility, —that the Queen's society was given up by the ladies of rank of her own country, from the moment she left this country,—that they all fell away,—in short, that she was treated abroad, I know not from what motive, with something of the same abandonment with which she was treated in this country,—I well know from what motive. All this is disproved by the evidence. How came my learned friend to forget the fact of that most respectable woman, Lady Charlotte Lindsay, joining her at Naples, after her conduct had been observed by all the servants; with which servants Lady Charlotte Lindsay's waiting woman naturally lived on terms of intimacy, and between which servants and her, I have no idea that any

thing of that grave-like secrecy existed, which each of them has represented to have existed between themselves up to the time they came to the Cotton Garden depôt, and up to the moment that they conveyed from that depôt to your lordships' bar, the resources of their perjury. Lady Charlotte Lindsay, Lord and Lady Glenbervie, Mrs. Falconet, and others, had no doubt some intercourse with those Neapolitan servants, either directly or through their own attendants, all of whom are represented as having been perfectly astounded with the impropriety, nay, the indecency of the conduct of their royal mistress; and yet those noble and virtuous persons are proved to have joined her, some at Naples, some at Rome, some at Leghorn, and to have associated with her, in spite of all this open and avowed and ostentatious indecorum.

But, even to a much later period, and in higher quarters, the Queen's company has been proved, by my learned friend's case, not to have been treated abroad with the neglect which it experienced here. She has been, in the first place, courteously received, even after her return from the long voyage, by the legitimate sovereign prince of Baden, a prince with a very legitimate origin, though with a somewhat revolutionary accession to his territory. Equally well received was she by the still more legitimate Bourbons at Palermo; but courted was her society by the legitimate Stuarts of Sardinia, the heirs legitimate, as contra-distinguished from the heirs of liberty and of right, to the throne of this realm,—the illegitimate and ousted heirs I call them; but the true legitimates of the world, as some are disposed to term them, who do not hold that allegiance, at least who disguise that allegiance, to the house of Brunswick, which, as good subjects, we all cherish. Nay, even a prince who, I doubt not, will rank in point of antiquity and family, even higher than the legitimate

Bourbons and legitimate Stuarts,—I mean his highness the Dey of Tunis, the paragon of Moorish legitimacy,—received her Majesty as if she was respected by all his lighter-coloured brethren in the other parts of the globe. And she was also received in the same respectful manner by the representative of the King at Constantinople. So that wherever she has gone, she has met with respect from all ranks, and has associated with the only persons of authority and note whom she could have had as her vindicators. She was received by all those persons of authority and note, not only not as my learned friend expected to prove, but in the very reverse manner, and as from the evidence I have now described her reception and her treatment.

Suffer me now, my lords, to solicit your indulgence, while I look a little more narrowly into the case which was thus opened, and thus partly not proved, partly disproved, by the Attorney-general. The first remark which must strike any one who attends to this discussion, is one which pervades the whole case, and is of no small importance. Is it not remarkable, that such a case, possessed as they are of such witnesses, should have been left so lame and short as they must admit it to be left, when contrasted with their opening? Was ever a cause of criminal conversation brought into court under such favourable auspices? Who are your witnesses? The very two who, of all man and womankind, must know most of this offence, not only if it were in the daily course of being committed, but if committed at all,—I mean, the body servants of the two parties, the valet of the man, and the lady's own waiting maid. Why, in common cases, these are the very witnesses the counsel are panting to have and to bring into court. From the form of the action, they can hardly ever venture to bring the man's servant; but if they can get hold of

one by good fortune, they consider their case must be proved; and then the only question comes to be as to mitigation of damages, for as to the fact, no defendant would any longer hold out and resist. And if you believe any part of their case, it was not from over caution of the parties; it was not from any great restraint they imposed on themselves; it was not that, knowing they were watched, they took care to give the world nothing to see; because, if you believe the evidence, they had flung off all regard to decorum, all trammels of restraint, all ordinary prudence, and had given up the reins to this guilty passion, as if they were still in the hey-day of youthful blood, and as if they were justified by those ties which render its indulgence a virtue rather than a crime. Yet, with all this want of caution, all these exhibitions of want of circumspection, the man's serving man, and the lady's waiting woman have not been able to prove more than these meagre facts, which, it is pretended, make out the charge. When I said, however, there was no caution or circumspection, I mis-stated the case. If you believe the evidence,—and it is the great circumstance of improbability to which I solicit your attention,—if you believe the evidence, there was every caution used by the parties themselves, to insure discovery, which the wishes and ingenuity of their most malignant adversary could have devised to work their ruin and promote his own designs. Observe how every part of the case is subject to this remark; and then I leave to your lordships confidently the inference that must arise from the observation. You will even find, that just in proportion as the different acts alleged are of a doubtful, or of a suspicious, or of an atrocious nature, in exactly the same proportion do the parties take especial care that there shall be good witnesses, and many of them, in order to prove it. It would be a horrible case, if

such features did not belong to it; but such features we have here abundantly; and if the witnesses are to be believed, no mortal ever acted as the Queen is represented to have done. Walking arm in arm is a most light thing; it seldom takes place except in the presence of witnesses, and of those some speak most accurately respecting it; but sitting together in an attitude of familiar proximity, which is somewhat less equivocal, is proved by several witnesses; and those who state it to have been done by the aid of placing the arms round the neck, or behind the back, and which accordingly raises it a step higher,—the witnesses shew you that this happened when the doors were open, in the height of the sun, in a villa where hundreds of persons were walking, and when the house and the grounds were filled with common workmen. Several salutes were given; and, as this stands still higher in the scale, it appears that never was a kiss to pass between these lovers, without especial pains being taken that a third person should be by to tell the story to those who did not see the deed done. One witness is out of the room while Bergami is about to take his departure on a journey from the Queen, while in Sicily. They wait until he comes in, and then they kiss. When at Terracina, Bergami is going to land; the whole party are on deck; the Princess and Bergami retire to a cabin; but they patiently wait till Majoochi enters, and then the act is perpetrated. Sitting on a gun or near the mast of the ship, on the knees of the paramour, is an act still higher in the scale of licentiousness. It is only proved scantily by one witness; but of that hereafter. Care is taken that it should be perpetrated before eleven persons. But sitting upon a gun with the arms entwined, is such an act as leaves nothing to the imagination, except the granting of the last favour—the full accomplishment of the purposes

of desire;—this must be done in the presence of all the crew, of all the servants, and all the companions, both by day and in the evening. The parties might be alone at night,—then, of course, it is not done; but at all other times it is done before all the passengers and all the crew.

But the case is not left here. As your lordships might easily suppose, with persons so wary against themselves,—such firm and useful allies of their accusers,—such implacable enemies to themselves,—indisputable proofs of the case against them are not wanting to prove the last favour in the presence of good witnesses; and accordingly, sleeping together is not only said to have taken place habitually, nightly in the presence of all the company and all the passengers on board, but always, by land as well as by sea, did every body see it, that belonged to the party of pilgrims to Jerusalem. Nay, so far is this carried, that Bergami cannot retire into the anti-chamber where the Princess is to change her clothes, or for any other purpose, without special care being taken, that the trusty, silent, honest, unintriguing Swiss waiting-maid shall be placed at the door of that anti-room, and told, "You wait here; we have occasion to retire for an hour or two, and be naked together;" or at least she is at liberty to draw what inferences she pleases from the fact.

But, my lords, I wish I could stop here. There are features of peculiar enormity in the other parts of this case; and in proportion as these disgusting scenes, are of a nature to annoy every one, however unconcerned in the case, who hears them; to disgust and almost contaminate the mind of every one who is condemned to listen to them; in that proportion is especial care taken that they shall not be done in a corner. The place for them is not chosen in the hidden recesses of those receptacles of abomination with which the

continent abounds, under the debased and vilified name of palaces; the place is not chosen in the hidden haunts which lust has degraded to its own purposes, some island where vice concealed itself from the public eye of ancient times; it is not in those palaces, in those Capreas of old, that the parties choose to commit such abominations; but they do it before witnesses, in the light of open day, when the sun is at the meridian. And that is not enough: the doing those deeds of unnatural sin in the public high-ways is not enough; but they must have a courier of their own to witness them, without the veil of any one part of the furniture of a carriage, or of their own dress, to conceal from his eye their disgraceful situation! My lords, I ask your lordships whether vice was ever known before so unwary; whether folly was ever known so extravagant; whether unthinking passion, even in the most youthful period, when the passions swell high, and the blood boils in the veins, was ever known to act so thoughtlessly, so recklessly, so madly, as this case compels me to fancy, as these shameless witnesses pretend to represent? And when you have put the facts to your minds, let this consideration dwell there, and let it operate as a check, when you come to examine the evidence by which the case is supported.

But all this is nothing. Their kindness to the enemy —their faithfulness to the plot against themselves— their determination to work their own ruin—would be left short indeed, if it had gone no further than this; for it would then depend upon the good fortune of their adversary in getting hold of the witnesses; at least it might be questionable, whether the greater part of their precautions for their own destruction might not have been thrown away. Therefore, every one of these witnesses, without any exception, is either dis-

missed without a cause, for I say the causes are mere flimsiness personified, or is refused to be taken back, upon his earnest and humble solicitations, when there was every human inducement to restore them to favour. Even this is not all. Knowing what she had done; recollecting her own contrivances; aware of all these cunning and elaborate devices towards her own undoing; having before her eyes the picture of all those schemes to render detection inevitable and concealment impossible; reflecting that she had given the last finishing stroke to this conspiracy of her own, by turning off these witnesses causelessly, and putting them into the power of her enemy; knowing that that enemy had taken advantage of her; knowing the witnesses were here to destroy her, and told that if she faced them she was undone; and desired, and counselled, and implored, again and again, to bethink her well before she ran so enormous a risk: the Queen comes to England, and is here, on this spot, and confronts those witnesses whom she had herself enabled to undo her. Menaced with degradation and divorce—knowing it was not an empty threat that was held out—and seeing the denunciation was about to be accomplished—up to this hour she refuses all endeavours towards a compromise of her honour and her rights; she refuses a magnificent retreat and the opportunity of an unrestrained indulgence in all her criminal propensities, and even a safeguard and protection from the court of England, and a vindication of her honour from the two Houses of Parliament. If, my lords, this is the conduct of guilt; if these are the lineaments by which vice is to be traced in the human frame; if these are the symptoms of that worst of all states, dereliction of principle carried to excess, when it almost becomes a mental disease; then I have misread human nature; then I

have weakly and groundlessly come to my conclusion; for I have always understood that guilt was wary, and innocence alone improvident.

Attend now, my lords, I beseech you, with these comments upon the general features of the case, to the sort of evidence by which all these miracles, these self-contradictions, these impossibilities, are attempted to be established. I should exhaust myself, beside fatiguing your lordships, if I were to pause here and make a few of the cogent remarks which so readily offer themselves, upon the connection of that part of the case which I have now gone through, with the part I am coming to. But there are one or two points so material, that I cannot omit all mention of them before I proceed further. I will make this observation, that, if an ordinary case could not be proved by such evidence as I am now to comment upon; if it would require very different proofs in the most common story; if there were even none of the improbabilities which I have shewn—a case such as that I have now described, ought to be proved by the most convincing, the most pure, the most immaculate testimony.

My lords, I do not intend to assert, I have no interest in stating it, that a conspiracy has been forming against the Queen, by those who are the managers of the present proceeding. I say not such a thing. I only will shew your lordships, that if there had been such a measure resorted to; that if any persons had been minded to ruin her Majesty by such a device; they could not have taken a better course, and probably they would not have taken a different course, from that which I think the case of the prosecution proves them already to have pursued. In any such design, the first thing to be looked to is the agents, who are to make attacks against the domestic peace of an individual, and to produce evidence of misconduct which never

took place. Who are those persons I am fancying to exist, if their existence be conceivable,—who are those that they would have recourse to, to make up a story against the victim of their spiteful vengeance? First of all, they would get the servants who have lived in the house. Without them, it is almost impossible to succeed: with them there is the most brilliant prospect of a triumphant result. Servants who have lived in the family were, in fact, all that could be desired. But, if those servants were foreigners who were to be well-tutored in their part abroad, and had to deliver their story where they were unknown, to be brought to a place whither they might never return all their days, and to speak before a tribunal who knew no more of them than they cared for it; whose threat they had no reason to dread, whose good opinion they were utterly careless of; living temporarily in a country to which they did not care two rushes whether they returned or not, and indeed knew they never could return; those were the very identical persons such conspirators would have recourse to. But, there is a choice among foreigners. All foreigners are not made of the same materials; but, if any one country under heaven is marked out more than all the rest as the *Officina gentis* for supplying such a race, I say that country is the country of Augustus, Clodius, and Borgia. I speak of its perfidies, without imputing them to the people at large; but there in all ages perfidy could be had for money, while there was interest to be satisfied, or spite to be indulged.

I grant that there are in Italy, as in every where else, most respectable individuals. I have myself the happiness of knowing many Italian gentlemen in whose hands I should think my life or my honour as safe as in the hands of your lordships. But I speak of those who *have not* been brought here, when I make this

favourable admission. Those who have been brought over and produced at your bar, are of a far other description :—" Sunt in illo numero multi boni, docti, pudentes, qui ad hoc judicium deducti non sunt : multi impudentes, illiterati, leves, quos, variis de causis, video concitatos. Verum tamen hoc dico de toto genere Græcorum ; quibus jusjurandum jocus est ; testimonium ludus ; existimatio vestra tenebræ ; laus, merces, gratia, gratulatio proposita est omnis in impudenti mendacio." My lords, persons of this latter description were to be gotten by various means, which the carelessness of the one party, which the wealth and power of the supposed conspirators, placed within their reach. Money, accordingly, has been given, with a liberality unheard of in any other case, even of conspiracy ; and where, by some marvel, money could not operate, power has been called in to its aid.

Having thus procured their agents ; having thus intrusted them ; how were they to be marshalled to compass the common design ? Uniformity of statement is above all things necessary in conspiracy. Accordingly, they are taken, one by one, and carefully examined before one and the same person, assisted by the same coadjutors and even by the same clerks ; they are moved in bodies along the country, by even the same couriers ; and these couriers are not the ordinary runners of the Foreign Office of a country which shall be nameless, who had some connexion with the spot, but special messengers, whose attention is devoted peculiarly to this department. Many of the persons intended to be used themselves as witnesses, are employed as messengers ; which keeps the different witnesses in the due recollection of their lesson, and has the effect of encouraging the zeal of those witnesses, by giving them an office, an interest, a concern in the plot that is going on. Observe, then, how the drilling

goes on. It is not done in a day, nor a week, hardly in a year: but it extends over a long space of time; it is going on for months and years. The Board is sitting at Milan. There they sit at the receipt of perjury; there they carry on their operations, themselves ignorant, no doubt, of its being perjury; but then, so long as it continues, so much the more likely is the crop of gross perjury to be produced. The witnesses are paid for their evidence: the tale is propagated by the person receiving the money carrying it to his own neighbourhood; and he becomes the parent of a thousand tales, to be equally paid as they deserve; and of which one is as false as the other. You mark the care with which the operation is conducted; there is not a witness (I mean an Italian witness) brought to this country, without previously passing through the Milan drill; because, if they had not passed through that preparatory discipline, there would be want of union and agreement; so that even the mate of the polacca, Paturzo, who was brought here to be examined on the morning after his arrival, was brought through Milan, and passed his examination before the same persons who had taken the former examinations. Aye, and the captain too, who was examined by the Board, more than a year ago, is carried by the way of Milan, to have a conversation with his old friends there, who the year before had examined him to the same story. Here, then, by these means recruited,—with this skill marshalled, with all this apparatus and preparation made ready to come to the field where they are to act,—you have the witnesses safely landed in England; and in order that they may be removed from thence suddenly, all in a mass, they are living together while here; then they are carried over to Holland, and afterwards returned here; and finally deposited, a day or two before their well-earned sus-

tenance and well-earned money require them to appear before your lordships. They are now kept together in masses; formerly they lived in separate rooms; it was necessary not to bring them together before; but those of feeble recollection it was necessary afterwards to keep together, for the convenience of constant mutual communication. There they were, communicating to each other their experiences, animated by the same feelings and hopes, prompted by the same motives to further the same common cause. But not only this; according to the parts of the story which they were to make out before your lordships, they were put together. There are two Piedmontese: they did not associate together in this *contubernium*, (for I know of no other name by which to denote the place they occupied,) but one of them kept company with the mate and captain of the polacca, because he tells the same story with themselves. It is needless to add, that they are here cooped up in a state of confinement; here they are, without communicating with any body but themselves, ignorant of every thing that is going on around them, and brought from that prison by these means, in order to tell to your lordships the story which, by such means, has been got up among them.

My lords, I fear I may appear to have undervalued the character of these Italians. Suffer me, then, to fortify myself upon the subject, by saying, that I am not the person who has formed such an estimate of the lowest orders of that country. And perhaps it may be some assistance to your lordships, possibly some relief from the tedium of these comments on the character of the evidence in support of the bill, if I carry you back to a former period of the history of this country, and I shall take care not to choose any remote period, or resort to circumstances very dissimilar from those which mark the present day. Your lordships, I perceive, an-

ticipate me. I naturally go back to the reign of Henry VIII., and the proceedings against Catharine of Arragon. And I shall show your lordships in what way we have a right to view Italian testimony, though proceeding from sources calculated to beget impressions very different from the statements of discarded servants. You will find in the records of that age, in Rymer's Collection, some curious documents with respect to the process of Henry VIII. The great object, as your lordships know, was, to procure and consult the opinions—the free, unbiassed opinions—of the Italian jurists, in favour of his divorce. Rymer gives us the opinions of the professors and doctors of several of the Italian universities; and from them you will see that, by a strange coincidence, these *Docti* gave their "free, unbiassed opinions," in nearly the same words. I shall select that of the most celebrated city of the whole, which is known by the appellation of Bologna the Learned. The doctors there say, one and all, that in compliance with the request of the King, they each separately, and unconnected with his fellows, had examined the case; they had taken all the care which your lordships are taking on the present occasion; and then, having well weighed the matter, "Censemus, judicamus, dicimus, constantissime testamur, et indubie affirmamus," they say, that having sifted the question, they are one and all of opinion, that Henry VIII. has a right to divorce his queen. But it seems that, from the great similarity of the opinions of the doctors, and of the language in which these were expressed, there existed at that time much the same suspicion of a previous drilling, as appears to have prevailed in a certain other case which I shall not now mention; and that to repel this suspicion, pretty nearly the same precautions were used as in the other case. Indeed, by a singular coincidence, these *Doctissimi Doctores* of the sixteenth

century, were directed to swear, which they might do with a safe conscience, that they had never opened their mouths to one another on the subject, in the same manner as the *illiterati et impudentes* of the present proceeding swore, that they had never talked to one another on the subject of what each had to swear. The doctors and divines of Italy swore on the holy gospel, "that they never had, directly or indirectly, communicated their sentence, or any word or thing concerning the same, by sign, word, deed, or hint, until a certain day;" which was the day they all came to understand the matter.

Now, my lords, all this appeared *prima facie*, a very sound and specious case; as every security had been taken to guard against captious objections; and with that character it would probably have passed down to posterity, if there had been no such thing as a good historian and honest man, in the person of Bishop Burnet; and he, with his usual innocence, being a great advocate of Harry VIII., in consequence of his exertions in support of the Reformation, tells the tale in the way which I am now going to state; still leaning towards that king, but undoubtedly letting out a little that is rather against himself. Harry first provided himself with an able agent; and it was necessary that he should also be a learned one. He took one, then, to whom my learned friend, the Solicitor-general's eulogium on the head of the Milan commission, would apply in some of the words; a man of great probity, and singularly skilled in the laws of his country; and, by a still more curious coincidence, the name of Harry's agent happened to be Cooke. "He went up and down," says Burnet, 'procuring hands; and he told them he came to, that he desired they would write their conclusions, according to learning and conscience," [as I hope has been done at Milan,] "without any respect or favour, as they

would answer it at the last day; and he protested," [just as I have heard some other persons do,] "that he never gave nor promised any divine anything, till he had first freely written his mind;" and he says, that "what he then gave, was rather an honourable present than a reward;" a compensation, not a recompence, (to use the language of a right reverend interpreter.)* These were the very words used in that country at that time, as they have been recently in this.

Then, we have a letter from this agent, as who knows two hundred years hence, there may not be letters from Milan? There is extant a letter of Cooke's to Henry VIII., dated the 1st of July 1530, in which he says, "My fidelity bindeth me to advantage your highness, that all Lutherans be utterly against your highness in this cause, and have told as much, with their wretched power, malice without reason or authority, as they could and might; but I doubt not," says he, "that all Christian universities," (Christian contradistinguished from Lutheran!) "that all Christian ministers, if they be well handled, will earnestly conclude with your highness. Albeit, gracious lord," now comes he to expound what he means by the well-handling of the Christian universities; "albeit, gracious lord, if that I had in time been sufficiently furnished with money; albeit, I have, beside this seal, procured unto your highness 110 subscriptions; yet, it had been nothing, in comparison of that that I might easily and would have done. And herein I inclose a bill specifying by whom and to whom I directed my said letters, in most humble wise beseeching your most royal clemency to ponder my true love and good endeavouring, and not suffer me to be destitute

* Bishop Marsh, being a great Germanic scholar, aided the House in explaining this distinction taken by some witnesses.

of money, to my undoing, and the utter loss of your most high causes here." Now this, my lords, undoubtedly is the outward history of the transaction; but we have only seen the accounts of Bishop Burnet and of the agent Cooke. Happily, however, the Italian agent employed by Henry VIII. one Peter à Ghinnuciis, the Vimercati of that day, left his papers behind him, and we are furnished with the original tariff, by which the value of the opinions of these Italian doctors and divines was estimated. "Item, to a Servate friar, when he subscribed, one crown; to a Jew, one crown; to the doctor of the Servites, two crowns; to the observant friars, two crowns; Item, to the prior of St. John's and St. Paul's, who wrote for the king's cause, fifteen crowns," the author was better paid than the advocate, as often happens in better times. "Item, given to John Maira, for his expense of going to Milan, and for rewarding the doctors there, thirty crowns." There is a letter also from the bishop of Worcester to Cooke, directing that he should not promise rewards, "except to them that lived by them, to the canonists who did not use to give their opinions without a fee." The others he might get cheaper, those he must open his hand to; because, he says, the canonists, the civilians, did not use to give an opinion without a fee. Bishop Burnet, with the native simplicity and honesty of his character, sums up all this with remarking, that these Italian doctors "must have had very prostituted consciences, when they could be hired so cheap. It is true that Cooke, in many of his letters, says, that if he had had money enough, he could get the hands of all the divines in Italy; for he found the greatest part of them were mercenary."

My lords, the descendants of those divines and doctors, I am sorry to say, have rather improved than backslidden from the virtues of their ancestors; and,

accordingly, I trust your lordships will permit me to bring the tale down to the present day, and to connect the present proceeding with the divorce of Harry the Eighth's time. I trust your lordships will allow me to read to you the testimony, given in the year 1792, of a native of Italy, of distinguished family, who was employed in a diplomatic character, by an august individual, who was near being the victim of an Italian conspiracy: he published a letter, and it is evidence, I say, because it was published before the whole Italian nation in their own tongue, and it states what Italian evidence is made of; and he addressed it, with his name, to the prime minister of the country, that minister enjoying the highest civil and military authority there, and being by descent a subject of the British crown—I mean General Acton. "To the dishonour of human nature," says the writer, "there is nothing at Naples so notorious as the free and public sale of false evidence. Their ordinary tariff is three or four ducats, according to the necessities of those who sell, and the occasions of those who buy it. If, then, you would support a suit, alter a will, or forge a hand-writing, you have only to cast away remorse and open your purse, the shop of perjury is ever open." It poured in upon him in a full tide: he made his appeal in such words as I have now read: he and his royal master, who was implicated in the charge, were acquitted by such an appeal; and I now repeat it, when such evidence is brought to support charges as atrocious, as ruinous, and far more incredible in themselves, than that an Italian should have suborned an agent to injure a fellow-creature.

My lords, I have been drawn aside from the observations I was making, generally, of the manner in which this case has been prepared. I pray your lordships to observe how these witnesses all act after they come into court; and the first thing that must strike an ob-

server here, is the way in which they mend their evidence,—how one improves upon the other after an interval of time,—and how each improves, when required, upon himself. I can only proceed, my lords, in dealing with this subject of conspiracy and false swearing, by sample: but I will take the one that first strikes me; and I think it will effectually illustrate my proposition. Your lordships must remember the manner in which my learned friend, the Attorney-general, opened the case of Mahomet, the dancer. Again, I take his own words: "A man of the most brutal and depraved habits, who at the Villa d'Este exhibited the greatest indecencies at various times, in the presence of Her Majesty and Bergami,—exhibitions which are too disgusting to be more than alluded to,—the most indecent attempts to imitate the sexual intercourse. This person deserves not the name of a man," said the Attorney-general. Now, my lords, I take this instance, because it proves the proposition which I was stating to your lordships, better, perhaps, than any other. All show it, to a degree; but this, best of all; because I have shown your lordships how careful the Attorney-general is in opening the case, and how strong his expressions are; consequently, he felt the importance of this fact; he was aware how damaging it would be to the Queen; he knew it was important to state this, and he felt determined not to be disappointed when he had once and again failed,—he brought three witnesses; and if one would not swear the first time, he brought him again. Now, my lords, if I shew the symptoms of mending and patching in one part of such a case, it operates as volumes against the whole of that case; if your lordships find it here, you may guess it is not wanting elsewhere. But here it is most manifestly to be seen. Your lordships plainly perceived what it was that these witnesses were intended and expected to say.

You no sooner heard the first question put,—you no sooner heard the grossly leading questions with which the Solicitor-general followed it,—than you must have known it was expected that an indecent act would be sworn to,—that an exhibition would be sworn to of the most gross and indecent description; and one part of the evidence I can hardly recount to your lordships. Now see, my lords, how the first witness swore; this is their first and main witness, who is brought to prove their whole case,—Majocchi. He will only allow,—and this is the first stage in which this deity of theirs is brought before your lordships,—he will only allow it was a dance. "Did you observe any thing else?" the usual answer, "*Non mi ricordo;*" but "if there was, I have not seen it," and "I do not know." Was any thing done by Mahomet, upon that occasion, with any part of his dress?" says the Solicitor-general, evidently speaking from what he had before him written down; "He made use of the linen of his large pantaloons." "How did he use his trowsers? Did he do any thing with the linen of his pantaloons or trowsers?"—"His trowsers were always in the same state as usual." Here, then, was a complete failure,—no shadow of proof of those mysteries which this witness was expected to divulge. This was when he was examined on the Tuesday. On the Friday, with the interval of two days,—and your lordships, for reasons best known to yourselves, but which must have been bottomed in justice guided by wisdom,—wisdom never more seen or better evidenced than in varying the course of conduct, and adapting to new circumstances the actions we perform—wisdom which will not, if it be perfect in its kind, and absolute in its degree, ever sustain any loss by the deviation—for this reason alone, in order that injustice might not be done, (for what, in one case, may be injurious to a defendant, may be expected

mainly to assist a defendant in another)—your lordships, not with a view to injure the Queen,—your lordships, with a view to further, not to frustrate, the ends of justice,—allowed the evidence to be printed, which afforded to the witnesses if they wished it, means to mend and improve upon their testimony. Your lordships allowed this, solely with the intention of gaining for the Queen that unanimous verdict, which the country has pronounced in her favour, by looking at the case against her; your lordships, however, whatever might be your motive, did, in point of fact, allow all the evidence against her to be published from day to day. Accordingly, about two days intervened between Majocchi's evidence, and the evidence of Birollo; during which time, Birollo had access to Majocchi's deposition, as well as to his person; and it is no little assistance, if we have not only access to the witness but to his testimony; because he may forget what he has sworn, and it is something that he himself, as well as the second, the following, the mending, the patching witness, should see the story first told. Accordingly, with the facility which this gave him, forward Birollo comes, after two days interval, and improves upon the story; from a dance, and from the usual handling, or ordinary use of the trowsers, he first makes a rotulo or roll. The witness then begins to hint at some indecency; but he does not mention it. He starts and draws back. For my part I cannot tell what he meant; and he really adds something, which he, in his own wicked imagination, might think indecent, but he is forced to admit he does not know what it meant. But, on the Wednesday following, a third witness comes, the second of the patchers, and he finishes it altogether. He improves even upon Birollo; and he tells you, in plain, downright terms, that which I have a right to say is, because I can prove it to be, false,—which I have a

right to say, before proving it, is false; because I know the same dance was witnessed by wives and daughters, as modest and pure as any of your lordships have the happiness of possessing—by wives and daughters of your lordships in those countries.

Now, another improvement, and mending, and patching, suffer me, my lords, to advert to; for it runs through the whole case. I do not even stop to offer any comment upon the *non mi ricordo* of Majocchi; nor on the extraordinary fact of that answer being regularly dropped by the other witnesses, as soon as the impression which the repetition had made on the public mind was fully understood; but I wish to call your lordships' attention to the more important point of money. No sooner had Gargiuolo the captain, and Paturzo the mate of the polacca, proved that they were brought here by sums so disproportioned to the service, by sums so infinitely beyond even the most ample remuneration for their work; that they were bribed by sums such as Italians in their situation never dreamed of,—no sooner had this fact dropped out, than one and all of them are turned into disinterested witnesses, not one of whom ever received a shilling by way of compensation for what they did. "Half-a-crown a day for the loss of my time, my travelling expences, and a few stivers to feed my family!" The expectation of his expences being paid, began in the instance of the cook, Birollo. He told you he had nothing at all but his trouble for coming here. "Do you expect nothing?"—"I hope to go soon home to find my master." The cook at first was offered and refused money. The others had nothing offered; Demont nothing! Sacchi nothing! though true, he, a courier, turns out to be a man of large property, and says, "Thank God! I have always been in easy circumstances;"—thank God! with a pious gratitude truly edifying. A man who must have a servant of his own,—

who had one in England,—who must live here at the expense of four or five hundred pounds a year, which is equal to fourteen or fifteen hundred in Italy,—goes to be a courier, is angry at being turned off, and is anxious to return to that situation! I believe the captain and the mate. They avowed that what they had was enormous payment; and the other witnesses, hearing of the effect of that confession, have, one and all, denied having received any thing, and would not even confess that they had any expectations for the future.

The last of these general observations with which I shall trouble your lordships, and which I own I think your lordships must have been impatient I should come to, regards the great blanks among the witnesses for the prosecution,—I mean, the fewness of those witnesses compared with what their own testimony, and their own statement that introduced it, show your lordships the advocates of the Bill ought to have called. My lords, I conjure you to attend to this circumstance, for it is a most important point in the whole of the case. I say, that if I had not another argument to urge, I should stand confidently upon this ground. If the case were as ordinary as it is extravagant,—if it were as probable as it is loaded in every feature with the grossest improbabilities,—if it were as much in the common course of human events, that such occurrences as those which have been alleged should have happened, as it is the very reverse,—I should still stand confidently and firmly upon that part of the case to which I have now happily arrived. I know, my lords, that it is bold; I know that it is bold even to rashness, to say so much of any point before I have begun even to hint at it; but I feel so perfectly, so intimately convinced, that in such a case as the present, the circumstance to which I refer ought to be fatal to the Bill before your lordships, that I consider myself as even acting prudently, in de-

claring, by anticipation, what I hold to be its character.

My lords, the Attorney-general told us, that there were rumours at Naples pointing to reasons why the Queen's ladies left her; it turned out, that instead of leaving her, one had joined her at Naples, one had joined her at Leghorn, and another at Genoa afterwards; but my learned friend said, that one left her, and one or two others stayed behind, and rumours were not wanting that their doing so was owing to the impropriety of her Majesty's conduct. Rumours! My learned friend may say, that these were rumours which he was unable to prove. But if they were rumours which had any foundation whatever; if they were such rumours as my learned friend had a right to allude to, (even if he had a right to refer to rumour at all, which I deny); if there was a shadow of foundation for those rumours; why did he not call the obvious witnesses to prove it? Where were those ladies, women of high rank and elevated station in society, well-known in their own country, loved, esteemed, and respected, as women upon whose character not a vestige of imputation has ever rested,—women of talents as well as character,—the very persons to have brought forward, if he had dared bring them forward—why were all of these kept back, each of whom formed the very signal, and I had almost said extravagant, contrast to all the witnesses, but two, whom my learned friend did venture to call to your lordships' bar? Why were those noble ladies not produced to your lordships? Why had not your lordships, why had not we, the benefit of having the case proved against us, in the manner in which any judge sitting at the Old Bailey would command, upon pain of an acquittal, any prosecutor to prove his charge against any ordinary felon? Certainly they were in our employment; they were in some way connected with our interest; they received

salaries from the Queen, and might be supposed to be amicably disposed towards her. My lords, is there in all that the shadow of a shade of a reason why they should not have been adduced? I am not speaking in a civil action. I am not dealing with a plaintiff's case, in a suit upon a bill of exchange for twenty pounds. I am not even speaking in a case of misdemeanour, or a case of felony, or the highest crime known in the law, between which and the act alleged to have been committed by my illustrious client it is difficult to draw even a technical distinction. But I stand here on a Bill of Pains and Penalties, which your lordships are not bound to pass; which you may give the go-by to; which you are not bound to say aye or no to. Your lordships are not sitting as commissioners of Oyer and Terminer to try a case of high treason. Gracious God! is this a case in which the prosecutor is to be allowed to bring forward half a case? Is this an occasion on which the prosecutor is to be allowed to say, "These witnesses I will not call. True it is, they are the best. True it is, that they are respectable; and that they are unimpeachable, no man can deny. If they swear against the Queen, she is utterly undone. But I will not call them. I will leave them for you to call. They are not my witnesses, but yours. You may call them. They come from your vicinity. They are not tenants of Cotton Garden, and therefore I dare not, I will not, produce them; but when you call them, we shall see what they state; and if you do not call them"—in the name of justice, what? Say!—Say!—For shame, in this temple—this highest temple of Justice, to have her most sacred rules so profaned, that I am to be condemned in the plenitude of proof, if guilt is; that I am to be condemned, unless I run counter to the presumption which bears sway in all courts of justice, that I am innocent until I am proved

guilty; and that my case is to be considered as utterly ruined, unless I call my adversary's witnesses!—Oh most monstrous!—most incredible!—My lords, my lords! if you mean ever to shew the face of those symbols by which Justice is known to your country, without making them stand an eternal condemnation of yourselves, I call upon you instantly to dismiss this case, and for this single reason; and I will say not another word upon the subject.

Having gone over the general features of this portentous case, I am now to solicit the attention of your lordships, and I am afraid at greater length than any thing could justify but the unparalleled importance of the occasion, to a consideration more in detail, of the evidence by which it has been supported. And, in point of time, as indeed of importance, the first figure that was presented to your lordships in the group, must naturally have arisen to your recollection the moment I announced my intention of touching upon the merits of the different witnesses,—I mean Theodore Majocchi, of happy memory, who will be long known in this country, and everywhere else, much after the manner in which ancient sages have reached our day, whose names are lost in the celebrity of the little saying by which each is now distinguished by mankind, and in which they were known to have embodied the practical result of their own experience and wisdom; and, as long as those words which he so often used in the practice of that art and skill which he had acquired by long experience and much care,—as long as those words shall be known among men, the image of Majocchi, without naming him, will arise to their remembrance. My lords, this person is a witness of great importance; he was the first called, and the latest examined; beginning with the case, continuing by it, and accompanying it throughout. His evidence

almost extended over the whole of the period through which the case and the charge itself extends. If indeed you believe him, he was only dismissed, or rather retired from the Queen's service, and refused to be taken back, about the time when the transactions in the charge closed. He and Demont stand aloof from the rest of the witnesses, and resemble each other in this particular, that they go through the whole case. They are, indeed, the great witnesses to prove it; they are emphatically the witnesses for the Bill, the others being confirmatory only of them; but, as willing witnesses are wont to do,—as those who have received much and been promised more, may be expected to do—they were zealous on behalf of their employers, and did not stop short of the two main witnesses, but they each carried the case a great deal further. This is, generally, with a view to their relative importance, the character of all the witnesses.

Now, only let me entreat your lordships' attention, while I enter on this branch of the subject a little more in detail. I have often heard it remarked, that the great prevailing feature of Majocchi's evidence,—his want of recollection,—signifies, in truth, but little; because a man may forget,—memories differ. I grant that they do. Memory differs, as well as honesty, in man. I do not deny that. But I think I shall succeed in shewing your lordships, that there is a sort of memory which is utterly inconsistent with any degree of honesty in any man, which I can figure to myself. But why do I talk of fancy? for I have only to recollect Majocchi; and I know cases, in which I defy the wit of man to conceive stronger or more palpable instances of false swearing, than may be conveyed to the hearers and to the court in the remarkable words, "Non mi ricordo,—I do not remember." I will not detain your lordships, by pointing out cases, where the answer, "I

do not remember," would be innocent, where it might be meritorious, where it might be confirmatory of his evidence, and a support to his credit. Neither need I adduce cases where such an answer would be the reverse of this,—where it would be destructive to his credit, and the utter demolition of his testimony. I will not quote any of those cases. I shall content myself with taking the evidence of Majocchi as it stands; for if I had been lecturing on evidence, I should have said, as the innocent forgetfulness is familiar to every man, so is the guilty forgetfulness; and in giving an instance, I should just have found it all in Majocchi's actual evidence.

At once, then, to give your lordships proof positive that this man is perjured,—proof which I shall shew to be positive, from his mode of forgetting.—In the first place, I beg your lordships' attention to the way in which this witness swore hardily in chief, eke as hardily in cross-examination, to the position of the rooms of her Majesty and Bergami. The great object of the Attorney-general, as shewn by his opening, was that for which the previous concoction of this plan by these witnesses had prepared him; namely, to prove the position of the Queen's and Bergami's rooms always to have been favourable to the commission of adultery, by shewing that they were near, and had a mutual communication; whereas, the rooms of all the rest of the suite were distant and cut off; and the second part of that statement was just as essential as the first, to make it the foundation of an inference of guilt, which it was meant to support. Accordingly, the first witness, who was to go over their whole case, appears to have been better prepared on this point, than any ten that followed; he shewed more memory of inferences,—more forgetfulness of details,—perfect recollection to attack the Queen, —utter forgetfulness to protect himself from the sifting of

a cross-examination. "Where did the Queen and Bergami sleep?"—"Her Majesty slept in an apartment near that of Bergami." "Were those apartments near or remote?" for it was often so good a thing to get them near and communicating with each other, that it was pressed again and again. "Where were the rest of the suite; were they distant or near?" says the Solicitor-general. This was at Naples; and this is a specimen of the rest,—for more was made of that proximity at Naples than anywhere else,—"Were they near or distant?"—"They were apart." The word in Italian was *lontano*, which was interpreted "apart." I remarked, however, at the time, that it meant "distant," and distant it meant, or it meant nothing. Here, then, the witness had sworn distinctly, from his positive recollection, and had staked his credit on the truth of a fact, and also of his recollection of it,—upon this fact, whether or not the Queen's room was near Bergami's, with a communication? But no less had he put his credit upon this other branch of his statement, essential to the first, in order to make both combined the foundation of a charge of criminal intercourse, "that the rest of the suite were lodged apart and distant." There is an end, then, of innocent forgetfulness, if, when I come to ask where the rest slept, he either tells me, "I do not know," or "I do not recollect;" because he had known and must have recollected, that when he presumed to say to my learned friends, these two rooms were *alone* of all the apartments near and connected, that the others were distant and apart; when he said that, he affirmed at once his recollection of the proximity of those rooms and his recollection of the remoteness of the others. He swore that at first, and afterwards said, "I know not," or "I recollect not," and perjured himself as plainly as if he had told your lordships one day that he saw a person, and the next

said he never saw him in his life; the one is not a more gross or diametrical contradiction than the other. Trace him, my lords, in his recollection and forgetfulness,—observe where he remembers and where he forgets,—and you will find the same conclusion following you everywhere, and forcing upon you the same conviction. I will give one specimen from the evidence itself, to shew your lordships he has no lack of memory when it is to suit his purpose; when it is to prove a story where he has learned his lesson, and when he is examined in chief. When, in short, he knows who is dealing with him, and is only anxious to carry on the attack, I will shew your lordships what his recollection is made of. You shall have a fair sample of his recollection here. I asked him, "Have you ever seen the villa d'Este since the time you came back from the long voyage?" He had been examined in chief upon this, and had stated distinctly, with respect to the villa d'Este, the state of the rooms; and I wanted to shew the accuracy of his recollection on those parts where he was well drilled,—"Have you ever seen the villa d'Este since the time you came back from the long voyage?"—"I have." "Was the position of the rooms the same as it had been before, with respect to the Queen and Bergami?"—"They were not in the same situation as before." Then the witness gives a very minute particular of the alterations. A small corridor was on one side of the Princess's room on her return. "Was there a sitting room on the other side of it, not opposite, but on one of the other sides of it?" Now attend, my lords, to the particularity,—"There was a small corridor, on the left of which there was a door that led into the room of the Princess, which was only locked; and then going a little farther on in the corridor, there was on the left hand a small room, and opposite to this small room there was another door which led into

the room where they supped in the evening. There was this supping-room on the right, there was a door which led into Bergami's room, and on the same right hand of the same room there was a small alcove, where there was the bed of Bartolomeo Bergami." Again: "How many doors were there in the small sitting-room where they supped?"—"I saw two doors open always, but there was a third stopped by a picture." "Where did her royal highness's maid sleep?"—"On the other side, in another apartment." Now, my lords, can any recollection be more minute, more accurate, more perfect in every respect, than Majocchi's recollection is of all these minute details, which he thinks it subservient to his purpose to give distinctly, be they true or be they not? I do not deny them,—my case is, that much of what is true is brought forward; but they graft falsehood on it. If an individual were to invent a story entirely; if he were to form it completely of falsehoods; the result would be his inevitable detection; but if he build a structure of falsehood on the foundation of a little truth, he may raise a tale which, with a good deal of drilling, may put an honest man's life, or an illustrious Princess's reputation, in jeopardy. If the whole edifice, from top to bottom, should be built on fiction, it is sure to fall; but if it be built on a mixture of facts, it may put any honest man's life or reputation in jeopardy. Now, I only wish your lordships to contrast this accuracy of recollection upon this subject, and upon many other points,—a few of which I shall give you specimens of,—with his not having the slightest recollection of a whole new wing having been added to the Princess's villa. He recollects the smallest alteration of a bed-room or a door; but he has not the slightest recollection of the throwing up a new wing to the house. This memory of his at the least is a capricious memory. But I will shew your lordships that it

is a dishonest one also. Of the same nature is his evidence, when any calculation of time is required. He observes the most trifling distinction of time when it suits his purpose; and he recollects nothing of time when it is inconvenient for his object. In proof of this, I request your lordships to refer again to the celebrated scene at Naples. There this witness remembers down to minutes, the exact time which her Majesty passes, upon two occasions, in Bergami's room; upon the first occasion, she remains from ten to fifteen minutes; on the second, from fifteen to eighteen minutes; that is to say, taking the medium, sixteen-and-a-half minutes, true time. Upon another occasion, he tells you an affair lasted a quarter of an hour. Upon another occasion he fired a gun, and then altogether fifteen minutes elapse,—a quarter of an hour there. He is equally accurate about three quarters of an hour in another instance; that is, at Genoa, which I have spoken of before. The other instance was on the voyage. All this fulness of memory—this complete accuracy as to time—was in answer to my learned friend; all this was in the examination in chief; all this was thought by the witness essential to his story; all this garnished the detail of which the story is made up, and gave it that appearance of accuracy which was essential to the witness's purpose. But when it was my turn to question—when I came to ask him the time, and when the answer would be of use to the Queen; when it was of use, not to the prosecution, but to the defence—see how totally he is lost! Then he does not know whether they travelled all night,—whether they travelled for four hours or eight hours. In answer to a question upon that subject, he says, "I had no watch, I do not know the length of time." No watch! Possibly. And do not know the length of time! Very likely. But had you a watch when you

saw the Queen go into the room of Bergami? Did you accidentally know the time when it suited your purpose to know it to a minute? Why know the precise time so accurately on one occasion, and be so totally ignorant of it on another? He pleads the want of a watch only when it would suit the purpose of the defence, and bring out the truth; or, what comes to the same thing, would convict himself, were he to know the time. With respect to the category of numbers, he cannot tell whether there were two or two-and-twenty sailors aboard the polacca. He cannot tell more with respect to place, that other category of his deposition. Although he slept in the hold, he does not know where the others slept; he cannot tell where they were by night or by day; he knows perhaps that they were on deck in the day, but he cannot say where they were at night. In short, I ask your lordships, whether a witness with a more flexible and convenient memory ever appeared in a court of justice?

But this is not all, my lords. There is much in the evidence of this man, in which the answer, "I do not recollect," or, "I do not know," cannot, by possibility, be true, if the answers given in the examination in chief be true: as in the first instance which I gave you at Naples. If the minuteness sworn to in his examination in chief was true, and founded in fact, it is impossible that he should have no recollection of the matters to which he was cross-examined. If it was true that the rooms and doors were as he described them, he could not, by possibility, know and recollect that fact, and yet be in total ignorance of the other parts of the house. In the same manner, when I examine him respecting Mr. Hughes, a banker's clerk at Bristol, he knows nothing of the name—nothing of his being a banker's clerk—never knew a banker's clerk—has no recollection of him. But when he sees that I have got hold of a letter of

his which he knew nothing about at that time, and which he perhaps forgot having committed himself by; the moment he sees that, and before I ask him a single word to refresh his memory, you plainly see by his demeanour and the tone of his answer, that he had never forgotten Mr. Hughes at all, and that he never had forgotten his being a banker's clerk. "Oh!" he says, "I was in the habit of calling him brother, it was a joke on account of the familiarity in which we were." Thus it appears, that the familiarity makes him forget a man of that kind, although he says that familiarity was the ground of his calling him familiarly and habitually brother. It was manifest that Majocchi was not very well pleased to recollect all that passed in that family, he being a married man, and having made a proposal of marriage to a female there, which he attempted to laugh off, with what success, I leave your lordships to judge. He was not willing to recollect the name, or trade, or connection with that family, until he knew that all was known.

But, my lords, before we have done with Majocchi, we have other instances of that extraordinary instrument, as it has been called, I mean, memory; we have other instances of the caprices of which it is susceptible. Your lordships recollect the shuffling, prevaricating answers he gave respecting the receipt of money. He first said, he had received money from Lord Stewart to carry him to Milan. He afterwards, twice over, swore he never received money at Vienna from any person. Then comes the answer which I can only give in his own words; for none other will convey an adequate idea of his style. He says, "I remember to have received no money when I arrived at Milan; I remember I did not: 'non so;' I do not know; 'più no che si;' more no than yes; 'non mi ricordo;' I do not remember."

Now, my lords, I have a little guess what sort of an

evidence this Majocchi gave when he was laying the foundation of that favour which he has since uninterruptedly enjoyed in the councils of our adversaries, I mean, the Attorney and Solicitor-general. When, during his previous examination, he was laying these foundations, deep and wide, upon which his fortune was to be built, your lordships will perceive, that he recollected a great deal which he is now ignorant of. In the opening speech of my learned friend much was stated which this witness was expected to prove, and of which I have before given your lordships an instance or two, and which I will not repeat further than to remind your lordships, that Majocchi was to have proved the kissing in the room between that of the Princess and Bergami at Naples. On the contrary, the witness negatives it in the completest manner, by his saying it was only "whispering," and not kissing. This single instance shews the whole character of this man's testimony; but I will remind your lordships of one or two others, not so striking from the nature of them, but just as fatal to the credit of the witness; because they all shew, that he had told one story to the instructors of my learned friends, a story recorded in the briefs from which they put their questions, and another story to your lordships. When questioned here as to those points, he was staggered for some reason, possibly from knowing the facts and documents which I had got in my possession, but more probably from having forgotten part of his story. This is just one of the means by which to detect a contrived plot. Such partial forgetfulness is much more likely to take place, where the whole is an invention, than where there is truth at the foundation of the testimony. So it is in this case. Majocchi recollects part of his testimony. "Yes," is ready for the question: but parts of it he does not recollect. For it is perfectly evident, that

what a person has actually seen is more intensely impressed on his mind and more firmly retained in his recollection, than what he has invented and imagined. I am referring, my lords, to the Solicitor-general's examination of Majocchi. He is asked, "Did you bring Bergami any broth?"—"Often," is the answer. He then states, that he was ordered to sleep in a cabinet adjoining Bergami's room, and that when there, pretending to be asleep, the Princess passed through to the room of Bergami; and then he is asked, "After the Princess had entered the bedroom of Bergami, did you hear any conversation?"—That would have been enough; it is not a leading question, but it would have been enough to make the witness recollect; but conversation was not what my learned friend was after; "Did you hear any conversation, *or any thing else.*" That was a broad hint. The man had said something before, which had been taken down, and was in my learned friend's hand. Now, there was something there which he had said before elsewhere, and my learned friend wanted to get that out here. If it had been true, why should not the man recollect it? But he forgot it. He forgot part of his own invention; a situation to which a certain class of men, that I shall not now mention, are often exposed—a class whom the old proverb advises to have good memories. So my learned friend, skilfully enough, said, "Did you hear any conversation, *or any thing else*, pass between them?" "Only some whispers." Now, do your lordships want to know whether my learned friend meant whispering—I say, No. I say, I read as much as if I saw the printed paper which was in his hand.* My learned friend, the Attorney-general had

* The Briefs of the Crown counsel were all printed at a private press, being drawn from the collections of the Milan Commission.

opened very differently; but, besides, from the examination of the Solicitor-general, it is evident, that by his "*something else*," more than whispering was expected to come out, had the witness taken the hint. If Majocchi had never before said, that something more than whispering had passed between the parties, my learned friend would have been satisfied. But he proceeds to ask him, "Do you recollect having heard or observed any thing when the Princess was in Bergami's room the second time?"—"Whispering conversation," says he again. Another instance of the same sort occurs, and I hope it will not be thought too minute to go into it; for it is only in this way that conspiracies are detected, that perjury is exposed, that wickedness is disappointed. My lords, there was a story told about the Princess riding upon an ass. "At Genoa, you saw her royal highness riding on an ass?"—"Yes." There was a great deal more in his former statement than he dared say now. "Did you, upon these occasions, make any observations as to any thing that passed between the Princess and Bergami?"—"Yes." My learned friend thought he was quite secure there. It is not a thing that happens every day to see a Princess of Wales riding about on an ass. "State what passed at the time she was riding on an ass?"—"He took her round her waist to put her upon the ass." My learned friend thought he was safe landed. "What else?"—"He held her"—Aye, that will do very well; a great deal may be done with the word "holding;" a great deal depends on the tenure—"He held her hand lest her royal highness should fall." Ah! that won't do. My learned friend is not satisfied with that. Indeed, he must have been satisfied easily, if that had contented him. But, having something in his hand which the witness had sworn to before—convinced it must be brought to his recollection again—not knowing he was

trying to do a very difficult thing, namely to make a false swearer recollect his fiction, but, trying, as he thought, to make a true man recollect what he had actually seen, my learned friend proceeded—"Did you make any other observation?"—"I have made no other observation; they spoke; they discoursed." The failure of my learned friend was thus complete. And there are a number of anecdotes of the same sort—the breakfast at the Benedictine convent, and other things, which were equally inventions, with this difference, that, as always happens to men engaged in such a vile concern, they forget parts that are just as specific and clear as the parts they recollect; and which, if they had been true, they would have recollected just as well.

I might remind your lordships, upon this head of Majocchi's evidence, of the incredible nature of his story respecting what took place at Naples. He would have you to believe, that having free access to the bed-room of Bergami, through other rooms in which no persons slept, which free access, he was compelled, after repeated prevarications, much equivocal swearing, and several positive denials, at length to admit, after a very pressing examination,—that having this secret, easy, safe access to that place of guilt, the bed-room of Bergami, the Princess preferred the other way, through the room where she knew Majocchi slept, where she saw that he slept in a bed without curtains, in a room so small that she could not go through it without almost touching his bed,—in a room too in which there was a fire to give light, and shew her passing through it. But, what is the most monstrous thing of all, he tells you that Her Majesty, in order to make her detection inevitable, as she passed through the room, went to the bed and looked him in the face, to ascertain whether or not he was asleep! Now, this

story defeats itself, and discredits the teller. You cannot believe it; no! it carries its own refutation along with it. What, my lords! are you to suppose that Her Majesty voluntarily passed through a room where she must have been seen if the person was awake, when she knew she might have gone another way, where she could not possibly have been seen? She knew, that Majocchi slept in that room,—she knew the disposition of his bed,—she knew that there was a fire kept in the room—knowing all this, she voluntarily passed through it, stopping in her way to look the witness straight in the face, and make her detection certain if he chanced to be awake! My lords, I say that this is a plain invention, an invention natural enough to come into the head of a person who lives in a country where nightly robberies are committed. I will not say that this witness is a person who had known more nearly that offence, and the precautions taken by those who commit it; but he, at least, was surrounded by adepts in the art, and we generally find in stories of robbers, that identical particular inserted. The robber comes to the bed of the lady and looks with a candle near her face, to ascertain whether she is asleep. If she is asleep, it is all well and safe; but if she is awake, and might give the alarm, he does not care about the alarm, and coolly retires. It is very wise and prudent in the robber to take this precaution, to which he adds that of a dark-lantern. But, for a person who is going to commit adultery in the next room, whose face is as well known to the man in bed as any face that can be shewn, to go up to his bed-side with a candle, and not a dark lantern, in order to discover whether he is asleep or not, is a proceeding altogether incredible. To what would not the simple fact of Her Majesty having been seen in that room, under such circumstances, have exposed her? Would not the

fact of being detected looking in the face of Majocchi, have of itself condemned her? The tale is most monstrous and incredible. But it is providentially and most happily ordained, for the detection of guilt, and the justification of innocence, that such inventions are often thoughtlessly devised and carelessly put together; and, in this instance there has been but little caution used in putting together the materials, which have been very thoughtlessly cast.

Now, my lords, I wish, before I close my observations on these stories, that I might recall to your lordships' attention what this witness has said on another point. He told you, that Bergami began to dine at the table of the Princess at Genoa, when it is notorious that he did not begin to dine with her until some months afterwards. I might recall to your lordships' attention that, in speaking of the night-scene at Genoa, he does not recollect Vinescati, the courier, arriving: he even says, as the thing is much mixed up with fiction, he had forgotten it, and he did not remember his arrival at all. "Do you remember at any time of the night, knocking at the door of Bergami's bed-room, and endeavouring to wake him?"—"I do remember." "Upon what occasion was that? For what purpose?"—"It was in the night when Vinescati came, and I went to knock." Then, recollecting the contradiction, he said, it was not the night Vinescati arrived, but the night thieves got into the house; and then he drops the courier altogether.

But I come to what happened late in the day. Your lordships recollect the account this witness gave of his leaving the service of her Majesty, an account which contains as much gross and deliberate falsehood as ever polluted the walls of a court of justice. And allow me here, my lords, to observe, that where you see one material part of a person's evidence grossly

and palpably false, it dispenses with the necessity of going more into detail, and relieves us from the necessity of proving him a perjurer throughout; the whole of his evidence is discredited; nothing that falls from the lips of a perjured man ought to be entertained; all must be rejected; my lords, in giving you an account of his quitting the service of the Princess, the witness thought it necessary, in order to raise his character, I suppose, to flourish about the cause of his leaving Her Royal Highness. He denied that he had been dismissed by her. He said that he left the service, because he did not like the bad people by whom she was surrounded. This he said, for the double purpose of raising his own credit, and debasing the Queen's, and vilifying the society by which she was surrounded. But, my lords, this story is false; and I will show the falsehood from his own mouth. When a question was put to him, "Did you apply to be taken back?" what was his answer? "I do not recollect." Here, my lords, you see how he defends and protects himself; for if he had answered, No, he knew we might have called a witness who would have convicted him at once. He was then asked, "Did you ever apply to Schiavini to make interest for your being taken back?" He answers, "Once I did." Now, a man might have recollected that, after being told, and might innocently have forgotten in answer to the first question; but then he would not have immediately recollected all the circumstances; for, the moment that string was touched, his recollection was entire, his forgetfulness quitted him, and he told us the whole history of the transaction; and a very material thing it is for your lordships to attend to. He said, "Yes, yes," *Si, si*, was his expression; but it was in a sort of joke, "I made the application in joke." That may be so; but if he did not make it in joke, he has perjured himself; if he did make this

application in joke, to what follows he must have answered, No. "Did you, or did you not make repeated applications to Hieronimus also to be taken back into her Royal Highness's service?" This could not be all a joke; you could not have joked with several persons on the same string. "*Non mi ricordo*," "this I do not remember." Now, I say, my lords, that either this last "*Non mi ricordo*" is gross and wilful perjury, or the first story is gross and wilful perjury, that he left the Queen from his horror of the bad people by whom she was surrounded, and that he made his application to Schiavini in pure joke. There is no way out of this dilemma. The two stories are utterly inconsistent. But your lordships recollect the way in which he told you that he never wished to go back to the service. It was done with some flourish and figure. He said with some indignation, "Rather than go to serve her Royal Highness, on account of the persons that are about her, I will go and eat grass." I ask your lordships, is that the saying of a true or a false man, when he pretends that he would rather eat grass than go back to a house, where he made one application which he pretends to have been a joke, and afterwards will not swear he did not make several applications to get back to the same bad house? My lords, here, I say, is developed the whole mystery of Majocchi and his *non mi ricordo*. This was his protection and his shelter. I say that rank falsehood appears on the face of this part of the evidence, take it the one way or the other; and I care not which of the two branches of the alternative is adopted.

I now wish to call the attention of your lordships, for a moment, to the next witnesses; but it shall only be for a moment; because I have already anticipated, in great part, what I had to say of them; I mean those well-paid swearers, the captain and the mate of

the polacca. First, as to the mate, there is something in the demeanour of a witness more consonant to a candid and a true story, than the pertness with which that person answered several questions; and all those who have been accustomed to see witnesses in a court of justice know, that those who are stating falsehoods are extremely apt to give flippant and impertinent answers. The mate of the polacca is precisely a witness of this kind. Upon being asked, "Was the little gun you spoke of, upon the deck?" he answers, "On the deck; we could not carry it in our pocket." I only mention this, because my learned friend the Solicitor-general has said, that he is a witness of great credit. Again, when asked, "How did you travel from Naples to Milan?" he answers, "In a carriage; I could not go on foot." I only state this to remind your lordships of the manner of the witness, which I should not do, if he had not been said to be a witness of the most perfectly correct demeanour on the present occasion. But I proceed to the substance of his evidence: I will venture to say, that a better paid witness, a better paid Italian, for any work or labour, has never yet come to your knowledge. He is paid at the rate of L.2000 sterling a-year; he was the mate in that voyage of a trading vessel in the Mediterranean, and he is now the fourth part owner of a vessel upon his own account. So that to give him a sum in proportion to what he makes when at home—to make it a compensation instead of a reward, according to the Right Reverend Prelate's learned interpretation—that vessel must earn L.8000 a-year; which is somewhat above an income of from sixteen to eighteen thousand pounds in this country. There is not a ship-owner in all Messina, that makes half the money by all the ships he has of his own proper goods and chattels. In that country, a man of two or three or four hundred pounds a-year is a rich man. Fifteen hundred

pounds a-year is a property possessed by none, except the great nobility. Clear profits of L.8000 a-year there! Their names would resound over all Italy as the rich of the earth; and not a man of consequence could have gone from this country to that, who would not have tried to procure letters of recommendation to them. The Cobbler of Messina has lived in history; but in his time he was not so well known as these two paltry shippers would be, if, instead of dealing out the instrument he did, these men kept their palaces and spent their four thousand a-year. And this is his story; and if he does not mean so much as this, so much the better in another way; for then is he wholly perjured.

My lords, the captain of the vessel, as might be expected, is paid at a much higher rate than the mate. He is paid L.2,400 a-year; he is fed, lodged, and maintained; every expense is defrayed, and this put into his pocket, and not for the loss of any profits. I have hitherto been considering it as a compensation for the loss of his profits. But his ship is not here; to use the mate's own mode of speech, he did not bring it here in his pocket; though the owner comes to England, the ship is employed in the Mediterranean, and earning her freight; and he is paid this, though he attempts to deny it,—he is paid this as a recompense and not as a compensation. The same argument then applies to the captain as to the mate, but in a greater degree, and I shall not go through it. But, it appears there was a cause of quarrel between the captain and the Princess of Wales. He tells you, with some *naivete*, that what he had for himself, his mate, and the other twenty men of his crew, and for all his trouble, was a sum considerably less, about a fourth part less, than he receives now, for coming over to swear in this business against his ancient freighter. But your lordships recollect what he added to that. He said, "When

we take on board royal personages, we trust more to the uncertain than to the certain profits." This is a great truth, well known to many present, that something certain is often stipulated for, but that something more is often given by way of honorary and voluntary compensation. Then, my lords, I only stop here for one moment, to remind your lordships, that according to this, his expectation is not limited to what he gets, namely, L.2,400 a-year, for coming here to swear against the Queen; but he says he has been employed by a royal person; and he tells your lordships that the ascertained compensation bore no proportion to the voluntary reward which he expected from her Majesty. How much less then has he a right to limit the bounty of her illustrious husband, or of the servants of His Majesty, who have brought him here, if he serves them faithfully, if the case in his hands comes safe through, and if no accident happens! If he should succeed in all this, he would then get what would make a mere joke of the L.2,400 a-year; though that would be infinitely greater than any shipper ever earned by the employment of his vessel in the Mediterranean Sea.

But independent of the hope of reward, there is another inducement operating on the mind of this witness from another quarter. Is there no spite to gratify? The whole of his testimony, my lords, is bottomed on revenge. I have a right to say this, because he has told me so himself. He has distinctly sworn that he had a quarrel with Bergami, the Queen's chamberlain, whose business it was to pay him the money; and that he complained to his own ambassador, that Bergami had kept back from him L.1,300 which he claimed. What happened then? "I have made some application, some demand. When I came here last year, I gave a memorial to my ambassador, Count de Ludolph, and I stated, that as I believed myself to

have served the British government, because I had had the honour of bearing the English flag, I expected the present which I had not received; and on account of this memorial which I gave to Count de Ludolph, the English government have known me to be Vincenzo Gargiuolo of Naples." Now, I mention it as a circumstance which may strike different minds in different ways, but as not immaterial in any view of this case, that the only knowledge the prosecutor of this case has of this witness is, his having made a complaint against the Queen and her chamberlain, for not paying him L.1,300 which he said they owed him. He added, that he had been advised to go to London to see after that sum of money. I warrant you, my lords, he does not think he is less likely to see his way clearly towards the success of his claim, in consequence of the evidence which he has given at your lordships' bar.

My lords, there are other matters in the evidence of these two men which deserve the attention of your lordships. I think that a Princess of Wales on board a vessel, sitting upon a gun, with her arms interwined with those of her menial servant, and sometimes kissing that servant, is a circumstance not of such ordinary occurrence in the Mediterranean, as to make it likely that the captain or mate would forget the most important particulars of it. Yet they do forget, or at least they differ,—for I will not allow they forget—they differ most materially in their history of this strange matter—far more, I will venture to say, than they would differ about the particulars of any ordinary occurrence that really happened. The mate says, that the Queen and Bergami were sitting on a gun, and that they were supporting each other. In the same page, he says afterwards, they were sitting near the main-mast, the Princess sitting on Bergami's lap. Now, the difference between sitting on a gun and near the mainmast may

strike your lordships as not important. I state it, because the mate considers it of importance; therefore, I conceive he has some motives for particularizing it; he means to say, I place my accuracy on these details, which I give at my peril. Accordingly he says, that when he saw the Queen on Bergami's knees, it was not on a gun, but on a bench near the main-mast; and not one word about kissing do I see in the mate's evidence. He forgets the most important part of the whole; for which reason, your lordships will conclude with me, I think, that he does not confirm the captain. The captain swears differently. He says, "I have seen Bergami sitting on a gun, and the Princess sitting on his knees, and that they were kissing." But do they speak of the same thing? Yes, if they are to be believed at all; for the captain says immediately after, that the mate saw it as well as himself. The mate, however, never says he saw it; and my learned friends did not dare to ask him if he had ever seen it. The captain says, they saw it together; yet when the men are brought to give their evidence,—and they are brought immediately one after the other,—you see the consequence. They totally differ in their account of the story, and differ in a way clearly to show, that the story cannot be true. Now, what think your lordships of this man's desiring you to believe,—of his expecting you to believe,—that he was a man of such strictness of conduct, and his mate so pure a youth, educated in that primitive, antediluvian Garden of Eden, Naples or Messina, that when he saw a lady go near a man, not touching, observe, but leaning over the place where he was reclined,—nothing indecorous, nothing improper, nothing even light, but only leaning towards the place where he was reposing, —he immediately desired the innocent youth to go away, because, beside being his mate, and therefore,

under his especial care in point of morals, by the relation of master and mate, he was also his distant relation, and therefore, by the ties of blood also, he had upon his conscience a responsibility for the purity of the sights which should pass before his youthful eyes, and therefore he could not allow him to remain for a moment near that part of the ship, where these two individuals were, because they appeared to be approaching towards each other! Perhaps there may be those who believe all this,—who think it a likely account of the matter. Observe, my lords, he never says that the Queen ordered them to go away, or that any order to that effect came from Bergami. No. The guilty pair never interfered; they were anxious that all the crew should see them; but the virtuous Gargiuolo, reviving in the modern Mediterranean a system of morals far more pure than ever ancient Ocean saw and smiled at, "cheered with the sight," would not suffer his mate to see that which might happen, when two persons, male and female, did not touch, but were only near each other. My lords, there may be those who believe all this,—I cannot answer for men's belief—but this I am sure, that if any one do not believe it, he must believe another thing; namely, that Gargiuolo the captain, and the mate Paturzo, speak that which is not true. There is no way out of this conclusion. Either you must believe that the captain speaks the truth, when he gives this account of his motives,—or you must believe that it is false, and that it is gratuitously false. But not gratuitous, as it respects his own character. He means to set himself up by it; to earn his money the better; and, if possible, to impose upon some credulous minds by it. Perhaps he may have succeeded,—the event will show,—in making more than that uncertain gain the rate of which a man, when dealing with royalty, always increases, and in improving his

chance of obtaining the L.1,300 for which he has come over to this country.

My lords, one more statement of these men, and I have done with them. See how well drilled they are! I hold them up as models of well trained witnesses; I regard their perfect drilling as a perfect study for those who may practise that art. I present them as highly-finished specimens of the art in its perfection; and no wonder they are well accomplished; they are the best paid; and therefore they ought to be the choice specimens of that art. Much money has been laid out upon them, and their zeal has been in proportion to the *much* they have received, and the *more* they expect. See how well they have been trained! But happily there are limits to this art, as there are to all human inventions. If there were not, God pity those who are attacked! God pity the innocent against whom the mighty engine for tutoring witnesses, for manufacturing testimony may be directed! They cannot perfectly get over the disadvantage of not having access to hear the evidence of each other; but see, when art can do it, how well it is done. The master and the mate are evidently descendants, lineal descendants, of the Doctors of Bologna. Whether their names are the same or similar, like those of Harry the Eighth's agent, and the chief Milan Commissioner, I know not. I have not before me the hundred and ten names of the Doctors; but that these are among their lineal descendants, no man can doubt. They are afraid to have it thought for an instant that they ever spoke to one another upon the subject of their evidence. Intimate in all other respects; living together in the Magazine of Evidence, the barracks of witnesses, in this neighbourhood; sleeping in the same room, supping together, breakfasting together the very morning before they came here, again meeting together the day after the first had been

examined, and when the second was to come, for any thing I know sleeping together—the only subject on which they never talked, in all the intimacy of master and mate, in all the nearness of blood and connexion, and entertaining an affection for each other that would do honour to the nearest connexion, and which I wish some of the nearest connexions, especially of a conjugal kind, had,—the only subject, I say, upon which they never chose to enter, is the subject of the inquiry which now occupies all other men,—the only subject on which all other men save themselves alone can converse!

My lords, this is not peculiar to these two witnesses, but the way in which they tell it is peculiar, and is not marked, on the part of the gallant captain, by the judgment and skill which usually distinguish him. "I am not a person," says he with indignation, "to state what I am obliged to say in this room,—the subject is of such a nature that it cannot be talked of."—What subject? There is nothing so frightful in this subject which you came to support, and which you have witnessed.—"No, no; but it would not be decent, it would not be creditable, that I should tell to others all those things which we say in this house, before these gentlemen, these lords." "Did you ever say anything to the mate upon it?"—"Oh, never, never!" "Did you tell Paturzo last night, or this morning, that it would not be fit for you and Paturzo to talk about his examination of yesterday?"—"Yes, upon this matter."

This brings me to say a word or two relative to a circumstance in the character of all these recruits in the Cotton Garden depôt. I must say, I think that whatever injury this inquiry may do to the highest and most illustrious persons,—however pregnant it may be with every thing offensive to morals and to good taste,—whatever mischiefs to the conduct of social life may arise, for some time to come, from the disgusting de-

tails brought forth in the course of this ill-omened proceeding to pollute English society; it must be matter of comfort, that there is one spot on the face of the island, one little land of Goshen, sacred from the squabbles which surround it, free from the neighbouring defilement, and that into this retired and pure society, those subjects which offend the delicate, which alarm the apprehensions of morality, which go so well nigh to contaminate the morals of all classes of the community elsewhere, never, by any mischance, penetrate; and, strange to tell, my lords, that one little spot is neither more nor less than Cotton Garden, in the vicinity of this house, inhabited by all the host of foreign witnesses whose depositions have spread abroad all the impurity that appals the world! Let no man, then, suppose that the danger is so great as it has been represented; or that there is any accuracy in the statement, or that there is any ground for the alarm founded upon it, that the whole island is flooded with the indecencies which issued forth from the green bag; for there is at least Cotton Garden, where the most strictly modest matron may go, without feeling, that if she carries thither the most chaste virgin, that virgin's face will ever there be suffused with a blush; for in that place, and amongst the witnesses themselves,—amongst the agents of this plot,—amongst the contrivers of it,—amongst those who appear before your lordships to give utterance to the abominations of their own fancy,—amongst them, it turns out, that there is never one whisper heard on anything even remotely connected with the subject which so much vitiates the mind, and debases, I will say, the reputation of this country every where else! If your lordships choose to believe this, far be it from me to interrupt an illusion so pleasing, even by giving it that name; for it is delightful to have any such spot for the mind to repose

upon. If you can believe it, do so in God's name! But if you do not believe it, I say, as I said before, you must believe something else; if you do not believe it, you must believe that all the witnesses who have said so, and they are all those who are in that depôt, are perjured over and over again.

My lords, the course of my observations has now brought me to personages of still greater importance in this case, than either the captain or the mate, although my learned friend, the Solicitor-general, has stated them to be witnesses of infinite importance,—I mean Demont and Sacchi; whom I trust I shall be excused for coupling together, united, as they appear to be, between themselves by the closest ties of friendship; resembling each other, as they do, in all the material particulars of their history, connected at least with the present story; both living under the roof of the Queen, and enjoying her bounty and protection; both reluctantly dismissed; both soliciting to be taken back into place and favour; knit together since by the same ties of country and friendship; living together in great intimacy, both in their native mountains of Switzerland, and afterwards upon their arrival in this country; remaining in this country about the same period of time, and that above twelve months; employing themselves during those twelve months in the way best adapted to fit them for the business in which they were to be employed, by obtaining access to our best classic writers, and attaining a knowledge of our language, though they modestly brag not of their proficiency in this respect, but choose to avail themselves of the assistance of an interpreter, which has this advantage, that it gives them the opportunity of preparing an answer to the question which they understand, while the interpreter all unheeded, is performing his superfluous part of furnishing them with a needless translation.

My lords, the other points of resemblance are so many, that I shall not detail them; for your lordships will see them when I come to enter into the particulars of the evidence. But I wish, in the first place, to remind you what sort of a person Mademoiselle Demont describes herself to be; because it signifies very little in comparison what we shall succeed in showing her to be; I had rather take her own account of herself; I cannot wish for more; and I am sure she could give us no less, with any ordinary regard to her own safety; for as to regard of truth, I say nothing about it upon this occasion. She is a person, it seems, of a romantic disposition naturally implanted in her mind, and which has been much improved by her intercourse with the world. She is an enemy to marriage, as she says in her letters. She does not like mankind in the abstract,—and yet "*potius amica omnibus quam ullius inimica*," I think we may say, from some things which came out afterwards,—mankind in the abstract she rather objects to; but she makes an exception in favour of such a near friend as Sacchi, whom she dignifies by the title of an Italian gentleman; though he, ungrateful man, to justify her dislike of mankind, will not return the compliment, by acknowledging her to be a countess! But this Italian gentleman, whom she will not acknowledge to be a servant, came over with her. Marriage, she says, she does not like. She loves sweet liberty; and in the pursuit of this "mountain nymph" over her native hills and in this country, your lordships see the sort of company in which she is landed, namely, that of Mr. Sacchi, not to mention Krouse the messenger, who goes over to fetch her, and brings the reluctant fair to appear as a witness upon the present occasion.

But far be it from me, my lords, to deny the accomplishments of this person. Very far indeed from me

be any such thought. She is the most perfect specimen,—she is the most finished model,—of the complete waiting-maid, that I believe the world has ever seen in actual existence. I believe none of the writers of her own country, or of ours which she is now studying, will give a more complete specimen—neither Moliere, nor Le Sage, nor our own Congreve or Cibber,—than that which she has given, without any assistance, in this house. I cannot deny her the greatest readiness of invention; that she is at no loss in writing I cannot dispute; I must admit, too, that she is not at all sterile in her descriptions upon those subjects on which she enters, until she is brought into contrast with her own letters, and until my learned friend Mr. Williams begins his somewhat unceremonious, not to say inconvenient, cross-examination. I cannot deny that she possesses a caution which would do honour to the Machiavel of waiting-maids; that she is gifted with great circumspection; that she possesses infinite nimbleness in devising excuses, and adjusting one part of her evidence with another; that all her shifts and her doublings were well devised, and that if the thing could have been done,—which it cannot by the eternal laws of truth—she would have succeeded in blinding and deluding her hearers. She showed great art in endeavouring to reconcile the stories she had told, with the contents of the letters which were produced; which letters she had not forgotten, though she did not know that they were still in existence, and ready to be produced against her. Had she been aware of their preservation, and had her patrons been aware of their contents, your lordships would never have seen her face here; just as you have not seen the faces of some seventy other witnesses, whom they dare not call, and whom they have shipped off, like so much tainted meat, or useless live lumber, for their native

country. Far be it from me, then, to deny the accomplishments of this person! Nor do I deny that she is a great adept at intrigue; which, indeed, she picques herself upon. She would never forgive me if I refused her that merit. Her constant practice is, to deal in *double entendres;* her friend Sacchi—I crave her pardon, Mr. Sacchi—does the same; she in her letters to her sister; and he in his conversation with Mr. Marietti. So that it is impossible for us, and may be very convenient for them, to know what they mean. In short, to them may be applied what was said of old of a whole people: "Tribuo illis literas; do multarum artium disciplinam; non adimo sermonis leporem, ingeniorum acumen, dicendi copiam; denique etiam, si qua sibi alia sumunt non repugno; testimoniorum religionem et fidem nunquam ista natio coluit: totiusque hujusce rei quæ sit vis, quæ auctoritas, quod pondus ignorant." I hear her candour praised by some persons, and why? Because she admits she was turned off for a story which proved to be false. I hear her praised too for her other admissions; and what were those? When asked, if she was sincere in such and such praises which she bestowed upon her Majesty, she said, in some of them she was, but not in all; in a part she was, but not in the whole.—"Were you in want of money?" "Never."—"Did you never write to your sister, 'I am in want of money?'" "It may be so; but if I did so it was not true." So there is no connexion *in rerum natura*, in this person's case, between the thing being true and her saying it, nor any opposition in this person's mind, in a thing being downright falsehood, and her saying and writing it. Truly, this is her own account of herself; and yet, to my no small astonishment, I have heard her praised for the candour with which she gave this account, by persons of moderate capacity.

My lords, I need hardly remind you,—I need hardly remind any person whose capacity is above the meanest,—I need hardly tell any man who is not fit to be turned out in the fields among those animals whom he sometimes abuses by using,—I need hardly say to any one above this level, See what is the effect of this! Will it be said—"Be it that she uses *double entendres*, that she tells falsehoods freely to gain her own ends; yet the candour of making these admissions, the ingenuousness of youth with which she informs you that she tells falsehoods by wholesale, so that she cannot be depended upon for a word she utters, is a blandishment more seductive than all her personal charms; it binds us to her, though not her personal lovers; and we open our ears to all her tales because she is so engaging a liar, and acknowledges, with so much readiness, that there is not a word of truth in her whole story?"—My lords, in any body but a witness you may be pleased with such candour; in any one except one whose credit depends upon the truth of her story. You may say to any other person, "Poor, dear, innocent Swiss Shepherdess, how ingenuous thy mind!" but to a witness! I never before heard so strange a reason for giving a witness credit, as citing the candour with which she admits that she is not to be believed.

My lords, look at her letters,—look at her explanations of them. I will not go through them in detail; but I will tell you,—and the more you look at them, the more you will be convinced of this truth,—that her explanations of them are impossible,—that the *double entendres* do not fit,—that the interpretations she gives do not tally with what appears in black and white. Her gloss does not suit her text,—the two are totally inconsistent; and the clear contents of the four corners of the document shew that what she stated on her oath is untrue. The letters themselves want nothing to make them per-

fectly intelligible. But her key does not fit her cypher. The matter only becomes doubtful as she envelopes it in falsehood, by the inventions of the moment, by her extempore endeavours to get rid of the indisputable meaning of the words in her own hand-writing. My lords, a plain man knows how to deal with these things. He does not entangle himself in the miserable webs which this dirty working creature attempts to throw around him; he goes straight on, if he be a wise and an honest man, to see justice done to the object of a perjured conspiracy; he goes straight through, and believes those, and those only, who shew themselves to be worthy of credit; and I pray to God, that your lordships may so believe, and not stand an exception, a solitary exception, to the conduct of all the rest of mankind! I hope your lordships will believe this woman to have been sincere, when she says that the Queen was good and innocent; that she then spoke the language of her heart in the eloquence of her feelings, and has only since been corrupted, when, upon a refusal to take her back into that service where she had never received aught but favour and kindness, she has fallen into the hands of the other conspirators against the honour of her illustrious mistress.

I forgot, my lords, in admitting the qualities of this female, to make another concession. She is kindly attached to her own sister. She loves her with a sincere affection. She tells you so. Her principle in her conduct upon this occasion, if she is believed, is anxiety for her service and interest. Now, I do not believe the story which follows; and it is not I who am calumniating Demont, because I am taking her own account of herself, which I do not believe. Mine is a plain story. She represents herself as affectionate towards that sister, heartily attached to her interest, only anxious to promote it,—her sister just coming into the

world at the innocent age of fifteen,—and that she does all she can to obtain a place for that sister in a house which, if you believe a tittle of what she told you, ought to have the name, not of a palace, as the Attorney-general says, but of a brothel. She has two sisters, indeed, and she is equally attached to both. She describes the letter as written immediately after leaving those scenes, immediately after having been unwillingly turned out of this brothel,—unwilling to leave it she says she was, although she admits that (differing from her sisters in that respect) she was rich and they were poor, and was therefore under no necessity of submitting to that contamination, which no necessity ought to induce an honest woman to endure. But though she was under no necessity, the honest Swiss chamber-maid balances the profits of her place against its disgrace; acting upon the principle of the Roman emperor, who, so that he raised a tax, was not over anxious as to the materials from which the filthy imposition was obtained. Though she admits that the house is worse than an ordinary brothel, and avows that she loves her sisters, the elder as well as the younger, she is occupied for six months after she leaves it, first, in endeavouring to obtain for the virgin of fifteen a place in order to initiate her there; and next, to keep the maturer girl of seventeen in possession of so comfortable and so creditable a situation. Such is Demont by her own account! I do not believe her so bad,—I believe no woman so bad,—as she now finds it necessary to tell you she is, because, unexpectedly, we bring out her own hand-writing against her. I believe every word of her letter to be sincere. I believe she did right and well in wishing to retain her own place, to keep one sister there, and then to obtain employment for another; but I also believe, that having been driven from thence, and disappointed in her hopes of being taken back, she

invented the story she has now told, not knowing that these letters were in existence, and would be brought in evidence against her. But she was sworn in Lincoln's-Inn Fields before she knew of these letters being in existence. Had she known of this fact, I have no doubt she would rather have forgone all the advantages she has reaped, from coming forward as a leading witness in the plot against the Queen, than have made her appearance at your lordships' bar.

So much for this lady. I now come to that amiable gentleman, Mr. Sacchi. And I observe, my lords, with great satisfaction, a most pleasing symptom of liberality in the present times, as exhibited in the liberal reception which this witness has met with among your lordships, and in the pains which have been taken, both by those who produced him, and those who afterwards examined him, to increase the estimation in which it was wished that he should be held. It shews how the age is improving. It shews how fast vulgar prejudices against Buonaparte and the French nation are wearing away. I well remember the time when nobody would have been very well pleased to bring forward as a principal witness in a case of any kind, a man whose recommendation was, that he had been a soldier of Buonaparte, that he had served in any of his campaigns, and had been promoted by the Corsican adventurer, the daring usurper, the unprincipled revolutionary chief, as it was the fashion so lavishly to call him. Nevertheless, now that a witness against the Queen has this merit to boast of, it is brought forward, as if we had never heard anything, as if we had never been sickened by whole volumes of abuse which had been poured forth, for the purpose of shewing, that the very name of a French hussar, particularly if he happened to be a servant of Buonaparte, was exactly the name for everything most profligate and abandoned. Now, my lords, without having ever been

one of those who approved of the excess to which this abuse was carried, on the part of ourselves and of our neighbours, I nevertheless cannot help thinking, that a cast-off servant, a courier who pretends to be a gentleman, and now has his servant to wait upon him, and who says, "Thank God, I was always in easy circumstances," though he was once living on the wages of a common courier; who can only say, that he was a common soldier in the French army, and was refused a commission in the Swiss army, but was offered the place of a serjeant,—would, a few years ago, have stood very little chance of mending his credit by this last adjunct. But this is my least objection to Sacchi. I must, indeed, be allowed to say, that the fact of such men having bravery enough to induce their masters to give them a pair of colours, is not the best positive proof of their being the most sincere and the most scrupulous of mankind. But look, my lords, at the account you have of him from himself. He, too, deals in *double entendres*. He has gone by three whole names and a diminutive,—two of them we know, and the third we do not know; but by three names and a half has he gone. When he came to this country he began his *double entendres* as soon as he came in contact with his beloved Demont. He told two *double entendres*,—if I may use four syllables instead of the shorter Saxon word. For if men will do this frequently and continually—if they will do it for a great object,—they get into the habit of doing it for no object, but mere sport and playfulness. He tells first this *double entendre*, "that he had come in the service of a Spanish family." Then he tells another, that "he had a law-suit,"—we have never heard what that was, nor anything more about it—that he came over in consequence of "a law-suit, a process with her Royal Highness." How, then, did he get into the situation in which he is now living with

his own servant, seeing that he was so sorry at being turned away from the service of the Queen, where he was first employed at the lowest wages of a courier, and afterwards as a poor equerry? My lords, you must believe that he has got money nobody knows whence, or you must disbelieve his story altogether.

But there is another similarity between Sacchi and Demont. He is asked, "How much money had you in your name at your banker's at Lausanne?" He answers, "Fifty louis."—"Will you swear you had not more than that at one time at that banker's?" "I had no more than those fifty louis."—"Will you swear you never had a credit which empowered you to draw upon that banker for a larger sum than this?" "I never had."—"Have you never represented that you had a larger sum or a greater credit?" "I do not remember to have said." Suppose any of your lordships were asked to speak to a fact, and were to say, "Positively not,"—"most certainly not,"—"I know it is not so,"—nobody would dare to put the next question to you,—at least I know very few of your lordships to whom they would dare to put it,—"Did you ever say so?" It could only be put to any one of your lordships in joke, or in consequence of the greatest familiarity subsisting between the parties; for you had answered substantially that question before. If you are a man to be believed upon your oath, have you not answered the question, whether you ever told any person you had more at your banker's, by saying you know you had no more at your banker's? If you had no more at your banker's, you never could have said that you had more; for if you had, you would have been guilty of what Sacchi calls a *double entendre*. But not so with Sacchi, or whatever his names, great or small, may be,—"I may have done so; I cannot swear when I am in doubt." The same as to his letters. He was asked, "Did you ever re-

present to any person, after you had left the service of Her Royal Highness, that you were in a destitute condition?" "Never."—"Did you ever entreat any person of Her Royal Highness's household to have compassion on your dreadful situation, after you had left Her Royal Highness?"—"I have never been in a dreadful situation." "Did you ever represent,"—there I was stopped,—"Did you ever say,"—but he had heard all the argument about representing,—"Did you ever say to any person that your conduct towards Her Royal Highness was liable to the charge of ingratitude with respect to a generous benefactor?" "Never."—"Will you swear that you never intreated any one of the suite of Her Royal Highness, after you had left her service, to take compassion on your situation?" "It may be." "Is that your hand-writing?"—a letter being put into his hands,—"It is." "Is that your hand-writing?"—another letter being put into his hands,—"It is." Now, in these letters he has taxed himself with ingratitude in the plainest words. Luckily, he had forgotten those letters. Would any of your lordships shelter yourselves under such a despicable pretext as to say, "Oh! I did not *say* it, I *wrote* it?" *Litera scripta manet*—Your lordships shall see the letters.

But you will recollect what passed afterwards; for I now come to a providential accident, if I may employ such contradictory terms, in compliance with the common use of them; I now come to an accident, but which I call an interposition in favour of innocence, which is always the care of Providence. Sacchi was asked by my learned friend, the Attorney-general, "You have stated, that when you came to this country, you assumed the name of Milani; what was the reason why you assumed that name?" To which he answered, "I took this name on account of the tumult (*tumulto*) which had taken place, and of the danger I

should have run if I had come under my name, knowing that I should have been known."—"When was it that you assumed the name by which you now go?" "It was immediately after the affair that happened at Dover." Now, luckily, he had forgotten the date; happily he did not recollect, that he came over to this country in July in the year 1819, and that the tumult at Dover happened in July 1820. These, my lords, are the providential circumstances by which conspiracies are detected; and but for which, every one of you may be their victims to-morrow. Now, I call upon your lordships to see how the witness gets out of this. After a short interval in the examination, you will find in page 459 of the printed minutes, that which I will read for the sake of connexion; and I do it the more freely, because it is the last quotation with which I shall trouble you from this evidence. In answer to a question put to him by the Attorney-general, Sacchi says, "I took this name on account of the tumult which had taken place, and of the danger which I should have run if I had come under my own name, knowing that I should have been known." "When did you assume the name by which you now go?" Then he instantly recollects, "It was immediately after the affair that happened at Dover." The name he now goes by, he assumed since the affair at Dover; the name of Milani he assumed a year before at Paris. My learned friend, the Attorney-general, leaves him there, concluding, from his experience of these matters, that he would only make bad worse by going on. But one of your lordships took it up; and if there ever was a specimen of shifting and beating about the bush, to shelter a mortal from an unlucky scrape arising out of a false tale, here you had it. The manner in which it was all spoken,—the confusion, the embarrassment, the perplexity,—I cannot represent. I trust your lordships

remember it. But enough remains upon the record, and by that I should be willing to try the credit of Sacchi as a witness. "Had you ever gone by the name of Milani before you came to England?" "I took this name in Paris."—"At what time, in what year, did you take that name in Paris?" "Four or five days before I set out for England."—"When was that?" "In the month of July last year."—"What was your motive for taking that name at that time in Paris?" "As I knew that I was known in London by my own name, I endeavoured to shelter myself against any inconvenience that might happen to me." Not a word about what had happened to others! "What tumult had happened at that time that induced you to take that name?" There is no more getting him out of the potential mood into the past tense, than there is getting him out of knavery into honesty. "What tumult had happened at that time that induced you to take that name?" "I was warned that the witnesses against the Queen might run some risk if they were known,"—forgetting, or wishing to slur over, that he had used the word "had," and wishing to substitute in its stead another tense. "Had you been informed that they had actually run any risk?" "They had not run any risk then." Then what was the "tumult" which he had spoken of before? The most favourable opportunity is then given him which an honest witness could possibly desire, of correcting himself, and of explaining the whole fact,—an opportunity which counsel might not have been disposed to allow, but which the house very properly gave him. The former questions and answers are read over to the witness, and he is desired to reconcile and explain them. But, with all those advantages, observe, my lords, the lameness of the pace at which he hobbles off; for on the manner of doing a thing as much may depend as upon

the thing done. The former question and answer being read from the minutes, he is asked this question, "Having stated in a former answer that you changed your name to that of Milani in consequence of a tumult that had happened, what did you mean by that statement?" "Whilst I was at Paris a gentleman came, accompanied by the courier Krouse,"—who had been named before,—"and the only time I saw him; and he,"—not Krouse, who might have been called, but the gentleman, who is not named,—"he told me, that it would be necessary to change my name,"—a kind man, though unknown; more kind than many we know better,—"because it would be dangerous to come to England under my own name, as I had told him,"—and these are inventions after the first part of the sentence,—"had told him I was known in England under my own name; and that already something had happened on this account; not on my account, but on account of other people." "Did he tell you that a tumult had taken place?"—now he is obliged to say something about a tumult, being led to it by the reading of the question. "He told me some tumult, some disorder." "On what occasion did he say that tumult had taken place?" "He told me nothing else." "You are understood to say it was with respect to other persons; what did you mean by other persons?" "He meant to say that some disorder had already happened, in regard to other persons, for similar causes." "What do you mean by similar causes?" Now, I never saw a witness who was brought into a corner by such a question, who did not answer as this man has done,—"I have repeated what that gentleman told me."—"Did you understand that it was with respect to witnesses who had come to give evidence in respect to the Queen?" "I believed it was for this object." "Did you know that any witnesses had at that time come

over to give evidence in the cause of the Queen?" "I did not know with certainty, but in the same way I was coming I might imagine"—the potential mood again—"that some other people might have already come." And there I leave him. I do not deny that he might imagine this or any thing else. I do not deny that other persons might have come as he was coming. I admit it to be possible. But what I deny is, that any person could have told him that which he says he was told. That he may have invented all this here, when he was pressed from an unexpected quarter, I readily admit to be possible; but that an unknown gentleman should have accompanied the well-known Krouse to Paris, should have told him a pure fiction of the brain, which no man could have dreamt of a year ago, is as utterly impossible as that a man should by chance have written the Iliad. My lords, only see how this stands; for I am afraid you do not feel it with the force which belongs to it. We now all talk of the tumult at Dover, and the risk to which the witnesses were exposed, with familiarity, because they are matters of notoriety. But carry yourselves back to July 1819—Who of us all, even in his most fanciful mood, ever dreamt of any one part of that scene which has taken place—any part of what we know, or of those consequences which we shall unfortunately never live not to know, have followed from these proceedings,—a tumult in consequence of the arrival of flocks of witnesses coming, and those regularly insulted, because witnesses in the Queen's cause? All this is mighty familiar to us now. But go back, my lords, I say, to July 1819. Would any man then have suspected it? I say it was an invention by the witness, to cover his retreat from the position into which he had been unwarily entrapped; and that in the month of July 1819, no man ever told him, or could have told him, that any tumult had

taken place, or that any witnesses had been exposed to insult.

My lords, it is only by comparisons like these that perjury can be detected, and conspiracies defeated. And this leads me to remark, that if you defeat a conspiracy by shewing perjury, or untrue swearing and prevarication, on points however collateral or trifling, there is an end of the credit due to the witness, and a failure of the proof of the conspiracy on the main points, though you should have left them untouched, which, however, is not the case here. But with respect to the witness Sacchi, I may as well now mention that part of the story which he and Rastelli, a turned-off courier like himself, had agreed in trumping up; because, however disgusting, however offensive, the slightest allusion to it, or the recollection of it, may be, I am sure your lordships will see that I cannot avoid reference to it, and comment upon it. Do your lordships think it very likely that any woman,—I might almost say any miserable person who gained her livelihood by prostitution,—would do that thing openly, in the face of day, with a menial servant four yards from her, without the slightest covering or screen, which Rastelli tells you the Queen did openly, in the neighbourhood of the Villa d'Este? Do you believe that with the knowledge that a courier was travelling on one side of the carriage, with the certainty that if surprised asleep, that courier might open the curtain, (for his story is, that he always did so,)—do you believe that, with the ruin staring her in the face to which such a discovery would expose her, by blasting her character even amongst the most abandoned of her sex, any living person would go to sleep in the position described by Sacchi as that in which the Queen and her chamberlain were found by him in the morning asleep in the carriage? But your lordships' credulity must be stretched yet many

degrees; for if you should have expanded it so as to take in the belief, that such a thing happened once, it will be nothing compared with what Sacchi has occasion for, in order to be credited; you must stretch your credulity yet many degrees wider, in order to believe his story,—and if you do not believe the whole, you can believe no part of it. This, he said, was the habitual, constant practice,—it happened again and again,—and he himself saw the self-same thing several times. I appeal to your lordships,—Is this probable? Is it in the common course of things, even with the most profligate and abandoned women, the women who are a disgrace to their sex? I say, unless you believe the parties to be absolutely insane, there is no accounting for such conduct.

My lords, there is an impossibility, I think, physically, in the story which Sacchi tells, at a time when the carriage was going at the rate of nine or ten miles an hour, over such roads as we know are found in that part of Italy, with two hands placed across each other, while the parties are fast asleep, and without any power over their limbs. To overcome this difficulty would, I think, have required the testimony of philosophers who had made experiments. And yet we are called upon to believe this on the evidence of Sacchi, such as he has described himself to be, but who has given you no other description of the carriage, except that there were curtains to it. What if it be an English carriage, with glasses and spring blinds! What, if I shew your lordships, by evidence, that it was an English carriage, furnished with glasses and with spring blinds? And even if the glass were down, which is not very likely in the night, how was he to open the curtain without putting his hand in to touch the spring, which he does not say that he did? What if I should prove that Sacchi was not the courier who went that journey,

but that it was another courier, of whom you shall hear more. But I contend that it is unnecessary for me to prove this. I deny that I am called upon to prove this. The opposite side had plenty of witnesses to establish their case, if established it could have been. They had abundance of cast-off servants; and if cast off-servants would not answer their purpose, they had the servants now in the employment of Her Majesty. Now, why did they not call them? Again and again let me entreat of your lordships never to lose sight of this fact,—for it is a main, if not the cardinal point in this case,—the accuser is not ever or upon any account, to be excused from making out his case. He has no right to put it upon the accused to call witnesses to prove herself innocent, seeing that it is the business of the accuser, by good evidence, whencesoever it may be drawn, to prove the guilt.

But was there any other person in the carriage while this scene was going on? "Non mi ricordo" was the answer of Sacchi, adopting the well-known language of the justly celebrated Majocchi. Now observe, my lords, the caution of this answer. That question did not come upon him by surprise. "I shall be asked," thought he, "whether there was any body else in the carriage. If I say there was any body there, nobody will believe it to have happened. If I say nobody was there, and it turns out that somebody was there, this will destroy my testimony, and therefore I must say, I do not remember." But he shall not stay there. In that lurking-place he shall not abide. I will drag him out. The first remark naturally would be—"This could not have taken place when any person was by; there must have been nobody else there." My lords, there *was* somebody else there, as I will prove to your lordships, during the whole of the journey. In the next place, after a

person has witnessed such a scene as this, and that person a servant, is it very likely that, from that moment forward, his lips should be hermetically sealed? that he should never dream of confiding it to the easy ear, the willing ear, of his tender and gentle and soft friend Demont? that he should enjoy the intimate and delightful intercourse of her society for months, both abroad and in this country, without talking of this, from a delicacy, I have no doubt, in their intercourse, far above that of all other pairs? He was aware that some had split upon a rock by saying that they had never told their story to any one until they told it at Milan—boatmen, masons, carvers, gilders, waiters,—all the witnesses brought from Lombardy. But he did not choose to say so. He had, by your lordships' kind permission, seen the evidence taken at your bar, and had studied it, knowing, as he does, the English language. He did not, therefore, choose to say, "I had told it to no one," but thought it more safe to say, "I had told it to people, though I cannot name one of them now." I say if it is clear, that such a thing could not pass and be seen without the eye-witness telling it again, it is just as clear, that the eye-witness could not tell it again, without well recollecting to whom he had so told it.

My lords, as to the witness Kress and her story at Carlsruhe, I have only to add, that it is physically impossible it could have happened, inasmuch as she says she well remembers it was after the first night they arrived at the inn. She remembers that by the circumstance of her having been called in one morning at breakfast———

[At this stage of the speech the house adjourned, and next day, (October 4th) Mr. Brougham, resumed.]

How comes it to pass, my lords, that with no want of care in the preparation in this Case; with the greatest display of skill and management in all the parts of the preparation; with boundless resources of all sorts, to bring these faculties into play; there yet should be one deficiency so remarkable, that even upon the names of the witnesses being pronounced, it must strike every observer—I mean, the total want of balance between the different countries from which the evidence is brought, and the unfairness shewn towards some great nations, contrasted so manifestly with the infinite attention paid to others; so that while the Italian States, from the greatest to the pettiest, are represented on the present occasion by numberless deputies, I will not say of all ranks—but of all ranks below the lowest of the middle orders—when you come across the Alps, you find Switzerland, the whole Helvetic League, appearing in the person of a single nymph, and the whole circle of the Germanic Empire, embodied in the personage of one waiting-maid at an inn—that from Vienna, the capital of the whole country, nobody appears at all—that from none of the other resting places of Her Majesty, in her tour through her native land, does a single delegate arrive—that from none of her abiding places there, least of all from the spot of her nativity, where she was best known, is one deputy to be seen—and that, in fact, every thing on this side the Alps is to be found in the person of one chamber-maid, or cellar-maid, or assistant to the cellar-man or drawer,—for in grave quarters doubts were raised in which of these capacities this Germanic representative was to be regarded. But, whatever doubt we might entertain as to her quality, with respect to her number there is no doubt; she is assuredly the one, single, individual person from that portion of the world, and save and except the Swiss maid, she is the one single individual

of all the company who is not Italian. I beg your lordships' pardon, there are two grand exceptions, but they are my witnesses, not my learned friend's, and I reserve them to open my case withal.

My lords, I now come to call your attention to this single German individual who appears before you; in proceeding to deal with whom, I was kindly interrupted by the attention of your lordships to the convenience of the parties yesterday. And here, as upon former occasions, I find myself obliged to have recourse to the witness herself, for the description of her own qualifications. She knows them best; she cannot be said to bear an unfavourable testimony, for excepting always the single instance of the Queen as shewn forth against her here, there never yet was known any person extremely anxious to fabricate evidence against herself. Now Kress, to take her from her earlier years, appears by her own account to have embraced at the tenderest age the reputable, the unsuspicious, the unexposed office of a chamber-maid at a little German inn. If your lordships will calculate from the number of years which she mentions back to the time to which her evidence applies, you will find she was just turned of thirteen years when she first became such a chamber-maid at the inn where she was afterwards found. The other places in which she served, it is not quite so easy to discover; but still there is no very great difficulty; and any little impediment in the way of our research into this part of her history is removed by a little attention to what the object is of the person who alone creates that difficulty, and to the motives with which it is thrown in our way. I make Kress herself her own biographer; for she tells you she was in other places,—what places? Mr. So, and So. "Mr. Marwey,—what was he?"—"I was as his servant." She tries to sink, until pressed, what the particular oc-

cupation of the master was, and what the particular capacity of herself in his service; and then it comes out, that in all the instances, without one exception, in which she had a place, unless when employed in the laundry of the palace of Baden, she was in all those cases in an inn, and in no other kind of house. However often she may have changed her service, she never has changed her station.

My lords, she lets us a little more into her history afterwards, and into the nature of her pretensions to credit before your lordships. First, we find in what manner she was induced to give her evidence; and I do entreat your attention to it, because it shows, that if there be any want of witnesses here, particularly from Germany, it is from no lack of agency on the part of those who were preparing the case against the Queen; for the agents in Germany are found in their accustomed number, with their usual activity, and with the full command of their ordinary resources. And I must say, that reflecting upon the Milan Commission as an Englishman, and recollecting that the German agents are not our countrymen, I feel some satisfaction that there was a greater degree of impropriety shown in the conduct of the German agents than we have ever imputed to any one beyond the Alps. I introduce to your lordships fearlessly in support of this proposition, Baron Grimm, the minister of Wurtemberg, the throne of which has been long filled by the Princess Royal of England. But I trace his connection with the parties in this prosecution. He and a person named Reden, (which Reden succeeded Baron Ompteda in his mission to Rome, where he dared to treat the consort of his royal master—his own Queen as well as she is your lordships'—with insults that made it impossible for her to remain on the spot, even if the defence of her honour had not

imperiously called her hither)—Grimm and Reden, and another whose name does not occur to me, but who is also a minister of the Grand Duke, at the place where the scene is alleged to have taken place, were the active and the unscrupulous agents in this part of the plot against Her Majesty. The worthy Baron Grimm, in the zeal which he shows for his employers, I have no hesitation in saying, has scrupled not to throw far away from him all those feelings of decorum, which a man may not dismiss, even in the most ordinary occasions of private life. It seems, however, that in affairs of diplomacy, things may be justifiable in a minister which would disgrace a private individual,—that conduct may earn him the applause of his employers which would call down upon his head the reprobation of every honest man in private life,—that actions may cover him with rewards, which he falsely calls honours, that would dishonour and disgrace him, had he been only acting in his individual capacity. My lords, I say, Baron Grimm did that which would have inevitably worked this destruction to his character, if he had not been a diplomatic agent,—to whom, I presume, all things are lawful.

Baron Grimm, was living in certain apartments,—they were his own by occupation. He heard that the Queen was about to arrive,—he artfully gave them up. He accommodated Her Royal Highness with the use of those rooms. He kindly left the principal apartment, and disinterestedly encountered the inconvenience of a change to other and worse lodgings. He courteously gave her the use of those from which he had himself departed; and, as soon as Her Royal Highness departed from the rooms,—on the very day that she left them,—he returned again to the same rooms, and was found with another coadjutor in this plot, running up and down,—to use Barbara Kress's expression,

"running about the rooms," examining every thing, looking at the furniture, prying into the beds, taking note of what had passed, that he might report to those who he thought would be pleased to find that he had gone upon such errands, but who I know and feel were above sending him upon such a dirty mission. But in one character he does not appear. Active as this agent every where is in the vile office of a runner of the conspiracy; sedulous and unscrupulous in his observations as he has been; regardless of his own dignity, and forgetful of that of the sovereign whom he represents, as he has proved himself to be,—he nevertheless does not condescend to make himself a witness. He does not adventure to come forward here; he does not show the same boldness to face your lordships and us, which he showed to face the reprobation of the public in his own country, and wherever else his conduct should be criticised. Here the Baron is not forthcoming,—here he is not to be found,—yet here he was a material witness, material in proportion to the importance of the matters which Barbara Kress alone has been brought into this country to swear to; of paramount importance, because Kress is the only witness who is brought to swear to any one of those particulars which are said to have passed at Carlsruhe; of still greater importance, when your lordships reflect, that because he entered the room at the moment the Queen left it, he must have been able, if Kress spoke the truth, to give confirmation to her statement. The Baron is, however, absent, and the only witness that could be obtained by all the skill, the industry, and the zeal of the several agents, to speak to the extraordinary fact, is this single German chamber-maid.

Let us then pursue the history of the only witness whom, with all the means in their possession,

and so little scrupulousness in using them, these agents have been able to gather from all Germany. Look, my lords, at the contradictory account the woman gives of her motives for coming over to this country. She twice over swore that she came upon compulsion,—that she only came because she was forced,—and you no sooner turn the page than you find that she made a bargain for compensation for the loss of time; but she was never promised any thing—no recompense—nothing of the kind—no *belohnung*, only an *entschädigung*, it was said while she was examined, and said by those who were examining her: but she would not say so, she would not adopt the expression tendered her; though offered to her, she would not take it into her mouth, but she said she came by compulsion, yet at the same time confessed that she had bargained for recompense. But what had she reason to expect without any express bargain being made? What reason had she to expect recompense? And with what liberality had she ground to hope it would be meted out to her? She shall again tell the story which she told however reluctantly. None of your lordships can forget with what reluctance she let it be wrung from her; but, happily, still it was wrung from her. Your lordships will find the part of the examination I allude to in page 193 of the printed minutes. She was asked, whether she had ever been examined before, and she answered, she had been at Hanover. The examination then proceeded thus, "What did you get for going to Hanover?" "I received a small payment, just for the time I had lost." "How much was that payment?" "I cannot exactly tell; it was little, very little." Now this I pledge myself to the accuracy of,—"little very little," those are her words at page 193. Why then, it was said, the less it was, the more easily it may be remembered; but it subsequently turned out, that it was not because

the reward was so little, but because it was so great, that she could not recollect it. "It was little, very little." Very little! What was this mere nothing? What, my lords, if it was a larger sum by five or six times than her yearly wages? What, if it was a larger sum by ten times than her yearly wages? What, if this little, this mere nothing, was even greater than her yearly wages, including all the perquisites of her place? What, if added to the sum she got for another trip to be examined at Frankfort,—she having been absent from her home six days on one trip, and four or five on the other,—what, if for one fortnight of a year, taking the going and returning into the account, this "very little," this mere nothing, which she cannot recollect, which she dismissed from her memory, and cannot now recall, because it was so little, turns out to be about double the sum, at all events more than half as much again, as she ever received, wages, perquisites, incidents included, in any one year, in her occupation of chambermaid! Now, my lords, will any man of plain ordinary understanding and capacity, even if he has not been accustomed to sift evidence,—even if this were the first time he was ever called upon thus to exercise his faculties,—pretend to say that he can believe this woman, in her attempt to deny receiving any thing,—in her failure in the attempt to recollect what it was, because it was so little a sum, when it was a sum that must have made an impression upon her mind, not only sufficient to prevent forgetfulness of it, not only (if she spoke truth voluntarily and honestly) to make her have no doubt in her mind of the amount, and no difficulty in telling it; but—what is equally of importance for your lordships' consideration,—to make that part of her evidence be pronounced false also, in which she says she expects no reward in fu-

ture; when here you see, that her expectations for the future must be measured by her recollection of the liberality with which she has been treated during the past?

My lords, you will find that the same equivocating spirit pursues this witness through the details of the case. The way in which she describes herself to have left the room where she pretends to have witnessed one particular scene, in order to go to the Countess of Oldi's chamber,—her way of denying when examined, whether she went there to satisfy herself that the person she had seen, or thought she had seen, was the Princess,—clearly shows your lordships, that she did not go to Madame Oldi's room for such a purpose, if she ever went at all; for, in answer to one of the questions put to her, as to the purpose of her going to Madame Oldi's room, and whether it was not to assure herself as to whom she had seen in the other room, she says, "I saw it was the Princess," which had nothing to do with the question as to the purpose of her going to Madame Oldi's room, if the other account she gives were true, that she had no such motive in going to Madame Oldi's room, which was not an immaterial point; for it was necessary that she should negative any such reason for going to that room, as otherwise she could not prove that she had certainly seen the Queen in the other room—*Non-constat* that the Queen was in that room, because Madame Oldi was not the only other woman in the house. It does not prove it was the Queen because Madame Oldi was in that room; but still the witness having gone thither with the intention of ascertaining if Madame Oldi was there, was a complete proof, that she was not satisfied of the person she had seen being the person whom it was her interest and her well-paid employment to come forward here for her employers in this conspiracy, and

swear she had seen. I have mentioned to your lordships, that in the Carlsruhe case the ambassador Grimm does not come forward, with others who might have been brought—others, belonging to the place—others belonging to the Queen's suite—to the absence of whom the observation I had the honour of making yesterday, and which I may have occasion to repeat afterwards, at present most strongly and most undeniably applies.

But now, my lords, we must again cross the Alps in pursuing the history of these witnesses. And there we find, that having dismissed all the principal performers in this piece, those who remain are mere make-weights thrown in to give colour and consistency to the fanciful picture, and to all of whom are applicable the general observations upon such testimony, which I had the honour of submitting to your lordships yesterday. Nothing, I think, can strike any one as being more inconceivable, than that what all these witnesses swear to have seen take place, should have been disclosed to mortal eyes by either of the parties to whom the depositions apply. The character and nature of those witnesses—of the lowest class of society—of the meanest appearance in every respect—of the humblest occupations, some of them even degrading ones, after all the pains taken to render them produceable witnesses—the total failure to clothe them with any the least appearance even of ordinary respectability—all this must have forcibly struck every person who saw but a single one of them here. I might remind your lordships of Guggiari, one of the boatmen employed on the Lake of Como, one of a boat's crew of eleven, all of whom were present at the time, none of whom had any intercourse of a confidential nature with either of the parties —if we are to talk of two parties here, as the accusation compels me to do, contrary to all truth, and without any proof on the part of the Bill. The impossibility of

conceiving that any individuals in their ordinary senses, and possessing their common understandings, would have allowed such things to have passed before eleven men of this description, and all strangers to them, must have struck every one who heard the evidence given, and have dispensed with the necessity, and almost excluded me from the duty of cross-examining a single one of this swarm of petty witnesses, who were filling up the gap between Kress and Demont. Why were none of the others called—none of the crew? Did Guggiari ever tell to any person what he had seen? Had he ever from that moment to the present time whispered it to one living ear? Yes, once. When? Where? At Milan—to the Commission. So it is with all the rest. Rastelli, who swears to a scene too disgusting to be gone over in detail—who swears to that abomination having been impudently practised in the open face of day, without the most ordinary covering or shelter, whilst he was at four paces distance, and where the turn of his head might have revealed it to him—this Rastelli, like all the rest, (for it is an observation that applies to every one of the witnesses of these strange abominations, as if the relation between cause and effect in this singular case was wholly suspended), had never opened his mouth on the subject—his lips were hermetically sealed, never to be opened again, until he appeared before the Commission at Milan. Ten long months elapse—the same silence! Was he living the life of a hermit all these ten months? Did he, like a solitary recluse, never see mortal face, nor approach human ear? Was there no brother, sister, friend, man, woman, or child, to whom he could whisper it? To child, perhaps, profligate as I have no doubt he is, he might refrain from revealing it; but to brother, to mistress, to wife, he might have communicated it—to boatmen, who have been, as I know, the means of

corrupting not a few of those whom they have attended, for they have confessed that they have got into the way of telling stories which had not a shadow of foundation, because their passengers had got into the way of paying them for being amused with those details by way of gossip—not one whisper ever escapes the lips of Rastelli, or of the other witnesses, with respect to the sights they had seen. Is it, my lords, the effect of seeing such sights to make men silent? Is it the effect of seeing such sights to make men even in the higher ranks of society, silent? How many are there of your lordships, who have not had long official habits, —whose lips are not under the regulation which such experience is calculated to inflict,—whose whole movements of mind and body are not disciplined and squared according to the rules of a court, so as even to enact the courtier when none are present—how many are there, even of your lordships, who would not in your natural state instantly have revealed it to some friend or other? But, my lords, I profess I can name none in private society—I can hardly name any gentleman, however prudent and discreet in his conversation, who not being intrusted confidentially, who only seeing what the party showed they evidently did not mean to be concealed, who under no seal of secrecy became acquainted with the fact, that would not necessarily, on witnessing so strange a sight, have made those wiser for talking with him whom he might afterwards chance to converse withal. Yet these low people, so different from persons in the upper ranks of life, are so much more discreet, so infinitely more upon their guard at all times and seasons, so incomparably more delicate in their conversation, talk only to persons of purity whose ears would be contaminated, and whose cheeks would be crimsoned by the repetition of these details; for in no one case does any of the witnesses

pretend to say, that he had ever told a living being of those strange and abominable sights which he had just witnessed. Were they sights of every day's occurrence? Was the Princess of Wales kissing her servant openly, and without drawing the curtains, a thing that happened on the lake of Como as often as the wind blew over it? Was the Princess riding with her servants in a carriage, in an attitude of foul indecency not to be named without a blush, an occurrence which happened every day? My lords, my lords, the sight said to have been witnessed was so strange, so unheard-of, so frightful, so monstrous, so portentous, that no person could have beheld it and kept it to himself for a single day. But days, weeks, months, passed away, and then it was told for the first time before the Milan Commission! It was then, for the first time, that the lips of those persons were unsealed! But I will not admit, that they concealed this extraordinary thing for weeks or days, or even hours. They may indeed perchance have concealed it, from the instant that they invented it, upon hearing on their journey to Milan, that their predecessors had been well paid for lesser slanders; they perchance may have kept it to themselves lest they should have covered themselves with infamy among those who knew it to be all a falsehood,—among their neighbours they may have concealed the vile fiction,—but they kept it secret no longer than the journey to Milan demanded; and in no case, will I venture to say, was it kept longer in their breasts than from the time it first crossed their imagination to the time they went and earned, by telling it, the reward of their perjury.

But, my lords, you will see that in this instance we have no variety. There is, in this respect, a general sameness in the conduct of these witnesses. In other instances there are variations of importance. Do your lordships recollect Pietro Cucchi, the waiter from Trieste?

Can any man who saw him have forgotten him? Does he not rise before you the instant I mention his name, —unless any of your lordships should recollect the face, the never-to-be-forgotten expression of face, although the name may have escaped you? Do your lordships recollect that unmatched physiognomy,—those gloating eyes,—that sniffing nose,—that lecherous mouth,—with which the wretch stood here to detail the impurities which he had invented, to repeat the falsehood to which he had previously sworn at Milan? Do you recollect the unparalleled eye of that hoary pander from Trieste? Did he not look, as the great poet of Italy describes the hoary unnatural lecher in the infernal regions to have looked, when he paints him as regarding him with the eye, the piercing eye, of an ancient tailor peeping through the eye of his needle?*

I remember that man well. The story he told is enough; but I will contradict him, for he at least shall not pass unpunished. *He* at least is here. He must be made an example of. I can contradict others, —I can drag others to punishment,—but he at any rate shall not escape. My lords, I will shew you, by evidence undoubted, unquestionable, above all suspicion, that that man *must* have sworn falsely. I will prove it by the room itself. I can, if I will, prove it by the position of the door. I think his own account of the position of that door, in answer to questions put by your lordships, might almost save me the trouble of doing it. But I will shew you more. I will shew you that what he swore cannot be true,—either here, if your lordships put me to the necessity of it, or elsewhere, for the sake of justice. I can shew, my lords,

* ——— guardommi
Come vecchio Sartor fa nella cruna.
DANTE.

that the Queen slept at Trieste, in her whole life, but one night: that she came one day,—went to the opera, as he admitted she did (that was the only truth the wretch told)—left it on the morrow,—and neither before nor after ever crossed the threshold of the gates of Trieste in her days.

My lords, I dismiss the other witnesses of the same description. I take this filthy cargo by sample purposely. Let those who will delve into the bulk,—I will not break it more. That it is damaged enough, the sample tells sufficiently, and with a single remark I dismiss it. Recollect, my lords, those foolish stories, not only about the hand, but about the pictures, and about the bracelet chain being put round the neck, with I know not what other trumpery, got up for the purpose of variegating the thrice-told tale; and you will, I think, agree with me, that the Italians who coined the fictions are pretty much the same now that they were known by our ancestors to be some centuries ago. Whether Iachimo be the legitimate offspring of our great Shakspeare's mind or not, may be doubted; yet your lordships will readily recognise more than one of the witnesses, but one especially, as the own brother of Iachimo. How has he represented himself?

——————"I have belied a lady,
The princess of this country, and the air on't
Revengingly enfeebles me.—

——————Mine Italian brain
'Gan in your duller Britain operate
Most vilely; for my vantage, excellent;
And, to be brief, my practice so prevail'd,
That I return'd with simular proof enough
To make the noble Leonatus mad,
By wounding his belief in her renown
With tokens thus, and thus; averring notes
Of chamber-hanging, pictures, this her bracelet!

My lords, the cases are the same. We have the same evidence, from the same country, for the same purpose, almost with the same effects; and by the same signs, marks, and tokens, with an extraordinary coincidence, the two cases are sought to be substantiated.

And now permit me, having disposed generally of the characters of the witnesses, to call the attention of your lordships,—and it shall be within much narrower limits than I could have done, had I not necessarily anticipated the greater part of my comments on this part of the case, in describing the character of the witnesses who supported it; because, while I have been dealing with the subject in that way, I have been of necessity led to anticipate, by commenting on the different branches of the case which each witness was called upon to substantiate—permit me, I say, to call the attention of your lordships to the several heads, as it were, of charge—the several counts—if I may so speak of this strange indictment, under the form of a Bill of Pains and Penalties which is brought forward against Her Majesty by the ministers of her Royal Husband.

Your lordships will recollect, that the first of these is evidently a Neapolitan scene. There the connection is alleged to have been first completed—there the parties came together and accomplished, for the first time, but with great freedom, and with long continuance, and without any restraint at all, the purpose which they appear, I will not say long, to have cherished, but to have conceived somewhere about ten days or a fortnight before. The Princess of Wales (this is the accusation), having been theretofore a person of unimpeachable character, a person of unimpeachable life,—proved to have been so by much stronger evidence than if she had never been suspected,—proved to have been so, if there is truth in evidence, if there is benefit in acquittal, if there is justice

in the world,—proved to have been so, better than if she had never been tried, by two solemn acquittals, after two searching examinations, carried on behind her back, and in circumstances utterly unfair and unfavourable to her,—so much proved to have been so, that when one set of ministers had reported her clear and innocent of the charges brought against her, but recommended her to be censured for what some persons were pleased to term "levities," their successors in office, the authors of the present proceeding, were in no wise satisfied with this scanty acquittal, as they thought it, but determined that the censure for levities should be expunged, and recommended solemnly, that she should be instantly received by her sovereign, her uncle, and her father, at his rigorously virtuous court, as the purest princess would be received who ever adorned the walks of royal life,—this character having, by such trials, been supported—having come out of the fire purer, in the eyes at least of those who favour the present charge against her—how do those who at least are thought to favour this charge, but I should deem unjustly thought considering their former history—how do they say she demeaned herself the instant she left England? Their maxim —their rule of conduct—their criterion of probability is, *nemo repente* NON *fit turpissimus*. Arriving in Italy, say they, this pure and unimpeachable personage hires a servant, a man then at least in a menial capacity, of whom I shall afterwards have to say a few words. She moves towards Naples; and, in the course of a few days, certainly in less than a month, you are desired to believe that the whole of the criminal intercourse commenced, that the degradation of the Princess was completed, and all restraint flung away,—from the mistress of the servant she becomes the mistress of the lover, of a menial lover,—plunging herself into a depth of vice which even habitually profligate women could not

for years accustom themselves to display or endure. Now, my lords, the whole case against Her Majesty falls to the ground, if your lordships do not believe, that on the second night of her arrival at Naples the alleged connection between the parties, the Royal Mistress and her hired servant, commenced; because Demont and Majocchi have both sworn to facts, which, if true, nay, if in their least particular true, prove the connection to have begun from that night; and have from thenceforward continued. And, with what caution is this carried on? Suppose that a long course of profligacy could not only bend the mind to the disgraceful circumstances, but render a woman incautious by habit—that is possible. But, it is not so here; for the first act is about the most incautious of the whole,—I mean, her choosing to go by the passage where she must be observed, in order to avoid the safer way to the room, the way through which it was highly probable no eye could watch her.

Then, my lords, only recollect the manner in which the evidence is brought forward; only see the manner in which this case is offered to your lordships' belief. How is the room prepared for the first night when the guilty pair were to meet?—By placing in the room which was to be the scene of their first loves—loves so ardent, that to accomplish them, all regard for decency and decorum had in one instant been flung away, and all caution to conceal them been for ever abandoned,—by placing in the room one small iron bedstead, of dimensions hardly sufficient to contain a single person, and only used upon a journey or in a voyage! This was the only preparation in a house, every room of which contained a comfortable bed. Nay, in that very room itself, there was another and a large bed, which the witnesses tell you was left untouched. This circumstance alone is decisive. The

witness tells you, in her first examination, that the larger bed was not much tumbled; but, a day or two afterwards, I think on the third day, she mends this materially; and then, in answer to a question put to her by my learned friend, Mr. Williams, who reminded her that she had said the large bed was not much tumbled, she says, "Yes, I said so when I was examined the other day, but I have since recollected something, and I can tell you more about it now." One of your lordships had that explained, and out came the story of the stains last of all—after she had again said, the second time mending the first account, that it looked as if two persons had pressed upon it in the middle. I repeat, last of all she recollected the stains; but what those stains were she could not tell. No person examined her about them: but she had not much liked my learned friend's operations the day before. She was not in good charity with Mr. Williams, after the second day's examination, which happened to be in his hands, and not in those of my learned friend the Solicitor-general; and, accordingly, she then said she would tell him nothing more, or, as she said herself, she recollected now what she had forgotten then. What did Mr. Williams say to her? What had passed in the interval to make her recollect one single tittle which the leading examination of the Solicitor-general, (I speak it not offensively), with the brief before him, ought not to have made her remember, and which yet it could not make her remember then? Was it likely or probable she should forget so strong a circumstance as the situation of the bed, when she knew that she came here to prove adultery—when she felt, at every word she spoke, that she was here for no other purpose? The witness farther volunteered to say, that the Princess returned home early from the opera. I shall shew, that she remained till the opera was over.

in the presence of the royal family of Naples, and in the royal box. She said, that the Queen was in a state of considerable agitation when she dismissed Billy Austin, for the purpose of being alone. She said that Billy Austin had been accustomed to sleep in the Queen's room. But I shall shew your lordships that this had ceased long before. I shall shew your lordships that he slept in the next room to Her Majesty, and that the door of communication was constantly unlocked. The witness said, that Her Majesty forbade him to come into the room; but she *did not forbid* him, in the most simple and effectual of *all* ways—by turning the key. She also describes the Queen as coming home early from the opera, to do what no man can doubt was adultery, under all the agitation and perturbation of a bridal night. Yet, my lords, will any man believe, that this person, so circumstantial and minute on other occasions, with a perfect sense how infinitely important it was to the tale that the bed should be represented not only as tumbled, (which yet she said was not much tumbled), but as having been slept in by two persons,—will any man believe, that if she then knew this, or afterwards could have recollected it, and if it was not a mere after-thought and fabrication, she would not have said at first, "Oh yes, the bed looked as if two persons had slept in it;" and then the stains would have been added, which she probably knows the meaning of, although, like Barbara Kress, she denies she understood them?—It is plainly out of human probability, that persons should recollect them, unless they understood them; otherwise, they are no more than ordinary marks or stains, which no person ever heeds, any more than the wind that passes over his head, or the marks left by the rain upon his path.

My lords, at Naples, another scene took place, to

which Demont is the only witness. She takes care to tell you no time. She is aware of the consequences of that. She will not give you the means of sifting her tale, or expose herself to the risk of contradiction. She will not tell you, whether it was a week after their arrival at Naples, whether it was near the beginning or near the end of their stay there, or towards the middle of it. But some night during their stay at Naples, she saw Bergami come out of his room naked except his shirt, without stockings on, without a night-gown on, and moving towards the part of the corridor into which the Queen's chamber entered. She did not start back, she did not retire; but she moved on in the direction towards Bergami. And Bergami did not start back; he did not retire; Bergami did not make any excuse, and Bergami seeing her before his eyes moved on also; and she made her escape out of the door; and he still did not bethink him of making an excuse, but moved on to the accomplishment of his guilty purpose, with more alacrity than almost a husband would have done, in going to the bed-chamber of his own bride. Your lordships will find all this in page 251 of the printed Evidence: I hardly stop to refer to pages, because I do not rely on particular passages, but only draw your attention to the main and leading features of the case, which cannot possibly have escaped the recollection of those among you who heard the evidence given at your bar.

Let me now remind you of the scene which is represented to have taken place at Catanea. And observe, my lords, that here there are two witnesses who might have been called to speak to this transaction, if it really did take place, both of whom were named and vouched by the Attorney-general in his opening. "Two maids," says he, "were sleeping

in the next room to that of the Queen; they both saw her come back from Bergami's room at an early hour of the morning; they both heard the child crying and the Countess trying to pacify her; and they both must have known what all this meant." Now, the Attorney-general not only does not venture to call both, but only one; but he does not venture to state, that these two women have ever communicated together, from that time to this, upon a tittle of what that morning or that night had passed. They never did communicate together—they could not communicate together—for nothing of the kind had passed. The whole thing was false; but Demont alone is called. And what is the story as she tells it? Now, I pray your lordships to attend to it; for it is, if possible, more incredible upon the face of it, from the multiplied improbabilities under which it labours, than that which I have just run over at Naples. Bergami usually slept, not only not near the Queen's bed-room, but on the other side of the court, which formed the centre of the building. On the opposite side of the court was his ordinary bed-room while he was well: but he became sick; he was seized with a severe fever, and he was brought over from his usual room into another room, belonging, I believe, to the Countess Oldi; and there he was lying ill for some days. Now, is it not a little extraordinary, that the scene of this amour at Catanea should be laid—I will not say in that room, though this would be strange enough, considering it could only be approached through the room of the maids—but that it should have been laid at the time when Bergami had a fever, and not when he was in good health? Bergami is there as a patient, not as a lover; and yet this is the particular moment chosen for those endearments which are left to be understood; and then Her Majesty must have Bergami placed just in that situation of all others,

in which access to his bed-room was rendered the most difficult and embarrassing, nay, the most impossible, when there were the two maids sleeping in the room between Madame Oldi's and his (for the Queen slept in that which had been Madame Oldi's room.) The Princess moved out of her room, and one of the servants had undressed her—this very witness had undressed her—in her own room; and the story is, that she removed out of her room in the night, and returned in the morning —not that she was always lying in Bergami's room, but that she went there in the night, and coming back in the morning, she was seen by the maids returning. Is it not a marvellous thing, my lords, that this should be the mode of operation? that the thought should not strike Her Majesty, that, in the accomplishment of this purpose, she was running the utmost risks without any inducement—risks similar to those which she ran at Naples in going through Majocchi's room instead of the empty room—while she might, by an alteration of the rooms, have rendered all safe and easy? She had only to place herself in the servants' room, or in Madame Oldi's new room, and there she could have had access to Bergami, or Bergami to her, without crossing the threshold of her maid's door? But, if your lordships are to believe the representations made to you, all this is only in furtherance of, and in conformity with, the uniform tactics of Her Majesty, to multiply damning proofs against her own character, her own existence, happiness, comfort, every thing dear to her in the world. For this is the plot she is in; and she is under a spell, if you believe the witnesses, never to do an act injurious to her character, without providing at the same time ample evidence to make that injury inevitable and effectual.

And now I am told that I can contradict all this by means of Mariette Bron, the sister of Demont,

and that it must all be believed unless Mariette Bron is called. I say, why did not you call Mariette Bron? I say, she is your witness; because you opened her evidence—because you vouched her—because you asserted that she was present—because you told us what she saw. And yet you call only her sister, whom you have in your own pay. I say she is your witness—because this is a criminal proceeding; because it is worse than a criminal proceeding; or of a nature higher at least in its exigency of pure, perfect, unsuspected, sufficient, nay, abundant proof. I say a Bill of Pains and Penalties is a measure of such severity, that it ought to be supported by evidence, better, if possible, and stronger, than that which takes away life or limb. I say, she is your witness, and not ours—because we are the defendants, the accused and oppressed by the Bill of Pains and Penalties, which does not only accuse, but oppress and overwhelm. She is your witness and not ours—because we stand upon our defence; we defy you to prove us guilty, and unless you prove our guilt, and until you prove that guilt, we ought not—if justice yet reigns here, we ought not—to be called upon for a defence. My lords, in a common civil suit, I can't comprehend such tactics. I am not bound, in claiming a debt, to call, for the purpose of proving my case, my adversary's servant, or his clerk, or his relation; but if I am placed upon my defence, charged with even the lowest crime known in the law, pure, unsuspected testimony must be given, whether it is to be derived from one quarter or from another—whether it is to be got from the prosecutor's side or our own. And I will put a case to remind you lordships of this:—Suppose a highway robbery or murder alleged to have been committed, and a man is put upon his trial for it; suppose that a Bow Street officer, panting for his reward, or an accomplice,

infamous by his own story, or a spy, degraded by his calling, or any other contaminated, impure, necessarily suspected witness of any description, is alone put forward to prove the charge; and suppose a friend of the defendant were standing by, his servant, or his partner in trade, or any person who is barely competent, by the rules of evidence, to appear as a witness—any person except his wife, who cannot be a witness—I say, no man ought to be—I say no man can be—I say, by our uniform practice, no man ever would be—put in jeopardy of his life, or be called upon to produce in his defence, that friend, that relation, that servant, unless the case against him had been first proved by unsuspicious testimony; and if only the degraded spy, or the infamous accomplice, or the hired informer, or the Bow Street runner, were called against him, their testimony is not such as to make it needful for the prisoner to call his friend. It is the prosecutor who must call that friend: it is no excuse to say he is a friend, a relation of the accused; a partnership is no excuse: the English law demands, what common sense approves, that every man shall be considered innocent until he is proved guilty; and that guilt must be proved at the peril of him who seeks to condemn losing the purpose of his prosecution.

My lords, the Queen is in a most singular situation. She must open her mind to painful constructions of the conduct of those who surround her. She may not view with a charitable eye the actions, and construe the feelings and the motives, of all she has intercourse with. She has been inured, by a long course of persecution—by the experience of much oppression—by familiarity in her own person with manifold frauds of her adversaries—by all the arts of spies—by all the malice of the spiteful and revengeful—by all those hidden artifices which are never at first and not always even at last, discovered—

artifices which only sometimes she has had the means of tracing and exposing to the day. Such is the life which she has led, the life of which this last scene now sifting by you, is very far from forming an exception; all that she has seen heretofore—all that she has seen now since she went last to Italy—all that she has witnessed here since her return—all that she has seen since this proceeding began—and she has heard the evidence read, down to the examination of the last witness on the last day—all is calculated to make suspicion, general, almost universal suspicion, the inmate of an otherwise unsuspecting breast. It is the fate of those who are ill-used—it is one of the hardest portions in the lot of those who have been so buffetted by the Grimms, the Omptedas, the Redens, not to mention the Douglases, the Omptedas of our own land—it is the hard lot of those who have passed through such trials, that the solace of unsuspecting confidence is banished from their harassed bosoms; their hearts are seared and hardened; they never can know whom they dare trust. And even at this hour, Her Majesty may ignorantly be harbouring a second viper in her bosom, of the same breed as that which has already attempted to destroy her, and engendered in the same nest. The Queen, my lords, has about her person a sister of Demont. She was placed there by that Demont. She was kept there by the arts of that Demont. She has corresponded with that Demont. They have corresponded in ciphers together, if you are to believe Demont, which I do not. But I take her as described by the Case for the Accusers; and, in all the circumstances which justify, nay prescribe suspicion, as a duty to her own personal safety, my learned friends yet leave their case short against the Queen, proved by such evidence as I have described to you, or rather, as it is painted by the witnesses themselves, and leave Her

Majesty to call their own witnesses! They say, "Why do not you call the waiting-woman, Mariette Bron, who is still left by her sister with you—whom that sister first planted in your household—whom that sister made you retain about your person, at the very time she was hatching her plot against you?" My lords, he who fulmined over Greece, and darted through her assemblies his words of fire, once said, what I would now repeat, imploring you not to take it in our own poor language, but to recollect the immortal accents that fell from him, in which he imprinted on the hearts of his countrymen, that instead of all outworks, all fortifications, all ramparts, which man can throw up to protect the weak, the best security which the honest and the feeble have against the fraudful and the powerful, is that mistrust which nature, for wise purposes, to defend the innocent against the strong and the cunning, has implanted in the bosom of all human kind. It is alien to the innocent nature; but it is one of the misfortunes to which innocence, by persecution, is subject, to be obliged to harbour mistrust, while surrounded by plotters so little scrupulous as the Grimms and Omptedas, working with agents so still less scrupulous, as Majocchi, Sacchi, and Demont.

My lords, I am satisfied in my own mind, and I have no doubt all who hear me will agree with me, that we are not bound to call this witness. I know not, if we had been ordered to deliver our opinion upon the subject to our illustrious client, that we should not have awakened suspicions in the Queen's breast, which even yet she does not entertain towards her serving woman. I know that it would have been our duty, as professional men, to have done so. I feel that we should have been more than justified in so doing; and I am confident that we might have appealed to the principles of which I have now reminded your lordships, and might

at once have left the case as it stands, without calling this woman. But her Majesty has as yet seen no reason to part with one whom she still thinks a faithful servant. Whatever we may suspect,—whatever the story of Demont may have taught us to suppose likely —the Queen has hitherto never known any thing to the prejudice of her sister. That sister will, therefore, be presented before your lordships, and you will have an opportunity of hearing her account of those transactions which have been so falsely described by others. But I again repeat that this is gratuitous on our part,— that we do it voluntarily, from an over-excess of caution, lest it should be suspected by any one, for a moment, that there is any witness whom we dare not to call.

In like manner, the story told of what happened at Scharnitz, upon the cross-examination of Demont, and upon the interrogatories put by your lordships, really melted away so that very little of it remained, and that little was perfectly equivocal, and quite consistent with the most perfect propriety of demeanour on the part of the Queen. But still, having seen that among some the story made an impression, at first rather than at last, we shall explain it in a way not at all inconsistent with any thing but the peremptory swearing of Demont as to the time, when she says that she could tell, within half an hour, how long she had been asleep, although she could not tell how many hours she was in a room wide awake the day before. Demont swore, that on the night Bergami returned with the passports to Scharnitz, he went to the Princess's room, and there remained the rest of that night. My lords, I will prove this to be false. I will prove that the moment the passports were brought, the preparations for the journey commenced. I will prove that Her Majesty set off on her travels within an hour and a half after the arrival of the passports, and that that time

was scarcely sufficient to pack up and prepare for travelling. I will also prove, that during the whole time the Queen's door was hardly ever shut, and that there was a constant passing, not of Bergami, but of the other gentlemen of her suite,—the Queen lying on the bed in her travelling dress, ready to rise at one in the morning, provided the passports arrived so early. So with respect to the Carlsruhe case. We shall shew your lordships that it is impossible Kress can have sworn true. That she may have seen a woman in that room, if she swears true at all, (which I do not believe), I have no occasion to question. But the night that Bergami went home, and the only night he went home, at the period in question, was when the Queen was left behind at a music party in the palace of her illustrious relation to whom she was making a visit. She remained there two hours and a half, and upwards —she remained there until between nine and ten o'clock, and she afterwards went to sup at the Margravine's, where she always supped on the evenings she did not dine there; and Bergami and his sister and child were then at home, when he was taken ill, and went to bed.

My lords, I would remind you of an argument which is used in the present case, and which I was rather surprised to hear that some persons had been so very regardless of the details, as to allow to influence their otherwise acute and ingenious minds. They say, that if this is a plot,—if the witnesses are speaking what is untrue, they have not sworn enough; that they ought to have proved it home, as it were; that they ought to have convinced all mankind, of acts having been unequivocally done which nothing but guilt could account for,—which were utterly inconsistent with the supposition of innocence. My lords, can those who argue thus, have forgotten two things which

every man knows, one common to all cases, and the other happening in every stage of this,—namely, that the most effectual way, because the safest, of laying a plot, is not to swear too hard, is not to swear too much, or to come too directly to the point; but to lay the foundation in existing facts and real circumstances, —to knit the false with the true,—to interlace reality with fiction,—to build the fanciful fabric upon that which exists in nature,—and to escape detection by taking most especial care, as they have done here, never to have two witnesses to the same facts, and also to make the facts as moderate, and as little offensive as possible. The architects of this structure have been well aware of these principles, and have followed the known rules of fabrication throughout. At Naples, why were not other people called? Why were there never two witnesses to the same fact? Because it is dangerous; because, when you are making a plot, you should have one witness to a fact, and another to a confirmation; have some things true, which unimpeachable evidence can prove; other things fabricated, without which the true would be of no avail,—but avoid calling two witnesses to the same thing at the same time, because the cross-examination is extremely likely to make them contradict each other. Now, for example, my learned friend opened a case that ought to be proved by a crowd of witnesses. Is it so usual for a Princess of Wales, who is seen in a box at Naples, to go on one occasion to the theatre and be hissed, whether she was masked or no? Do the concealments of a masquerade, like the fabrications of this plot, exist longer than from the night till the morning? Would not the hissing of such a person as the Princess, for such a cause as the indecency of her dress, have been known to all who attended the spectacle? Would it not afterwards have been believed and told by all the gossips of gay, idle Naples—

"Et otiosa credidit Neapolis,
Et omne vicinum oppidum."

And yet one witness alone, instead of all Naples, appears. In like manner, we have no other evidence at Naples of general demeanour. Why have we none to speak to the state of the beds? Why none to the state of the linen? I ask, what is become of Ann Preising? I can answer that question, as well as put it. She is here. I obtained the fact from a witness in cross-examination. Why is she not called? I can answer that question too. She is not an Italian. What reason is there for not calling her? Your lordships can answer that quite as well as I can. There was every reason for calling her, if they durst have done it. The case is short without it. She could have proved those marks,—she was the Princess's maid at that time. Beds! she made them. Linen! she had the care of it. Who washed the linen? Where was the laundress, the washer-woman? And yet she is an Italian, for aught I know, though she is not called, and though her being called must have proved the case, if Demont speaks a single word of truth. They were practised in calling washer-women. They knew the effect of it in England, in the former plot. They were called in the Douglas plot, but they did not prove much, and the plot failed. Made wise by experience, they call them not here; although they know, by that experience, that if they could have stood the examination, this plot could not have failed.

But again, my lords, am I to be told by those who have attended to this evidence, that there has been any very great short-coming in the swearing of some of the witnesses,—that they have not sworn unequivocally,—that they have not proved the facts? Why, what more convincing proof of adultery would you have than you have had in this case, if you believe the witnesses, and they are uncontradicted? I should not indeed say, if they are

uncontradicted; for I contend, that your lordships ought not to compel me to contradict such witnesses; but if you believe the witnesses, you have a case of adultery as plainly substantiated in proof as ever gained verdict in Westminster Hall, or ever procured Divorce Bill to pass through your lordships' house. All that Demont tells,—all that Majocchi tells,—every tittle of what Sacchi tells at the end of his evidence,—is proof positive of the crime of adultery. If you believe Sacchi, Bergami was seen twice going into Her Majesty's bed-room, and not coming out from thence. If you believe Sacchi, adultery is the least of her crimes—she is as bad as Messalina—she is worse, or as bad as the Jacobins of Paris covered even themselves with eternal infamy by endeavouring to prove Marie Antoinette to have been.

My lords, I have another remark to make, before I leave this case. I have heard it said, by some acute sifters of evidence, "Oh! you have damaged the witnesses, but only by proving falsehoods, by proving perjury indeed, in unimportant particulars." I need but remind your lordships, that this is an observation which can only come from the lay part of the community. Any lawyer at once will see how ridiculous, if I may so speak, such an objection must always be. It springs from an entire confusion of ideas; a heedless confounding together of different things. If I am to confirm the testimony of an accomplice—if I am to set up an informer—no doubt my confirmation ought to extend to matters connected with the crime—no doubt it must be an important particular, else it will avail me nothing to prove it by way of confirmation. But it is quite the reverse in respect to pulling down a perjured witness, or a witness suspected of swearing falsely. It is quite enough if he perjure himself in any part, to take away all credit from the whole of his testimony. Can it be said that you are to pick and choose; that you are to

believe part, and reject the rest as false? You may, indeed, be convinced that a part is true, notwithstanding other parts are false—provided those parts are not falsely and wilfully sworn to by the witness, but parts which he may have been ignorant of, or may have forgotten, or may have mistaken. In this sense, you may choose—culling the part you believe, and separating the part you think contradicted. But if one part is not only not true—is not only not consistent with the fact, but is falsely and wilfully sworn to on his part—if you are satisfied that one part of his story is an invention—to use the plain word, a lie, and that he is a forsworn man—good God! my lords, what safety is there for human kind against the malice of their enemies—what chance of innocence escaping from the toils of the perjured and unprincipled conspirator, if you are to believe part of a tale, even though ten witnesses swear to it, all of whom you convict of lying and perjury in some other part of the story? I only pray your lordships to consider what it is that forms the safeguard of each and every one of you against the arts of the mercenary or the spiteful conspirator. Suppose any one man, —and let each of your lordships lay this to his mind before you dismiss the mighty topic,—suppose any one of your lordships were to meet with a misfortune, the greatest that can befal a human being, and the greater in proportion as he is of an honourable mind, whose soul is alien even to any idea or glance of suspicion of such a case being possible to himself, whose feelings shudder at the bare thought of his name even being accidentally coupled with a charge at which his nature revolts—suppose that mischance, which has happened to the best and purest of men, which may happen to any of you to-morrow, and which if it does happen must succeed against you to-morrow, if you adopt the principle I am struggling against—

suppose any one of your lordships charged by a mercenary scoundrel with the perpetration of a crime at which we shew in this country our infinite horror, by almost, and with singular injustice, considering the bare charge to stand in the place of proof—suppose this plot laid to defame the fairest reputation in England—I say, that reputation must be saved, if escape it may, only by one means. No perjury can be expected to be exposed in the main, the principal part of the fabric—that can be easily defended from any attack against it; all the arts of the defendant's counsel, and all his experience, will be exhausted in vain: the plotter knows full well (as these conspirators have here done) how to take care that only one person shall swear to a fact,—to lay no others present,—to choose the time and select the place when contradiction cannot be given, by knowing the time and the place where any one of your lordships, whom he marks for his prey, may have chanced to be alone at any moment of time. Contradiction is not here to be expected,—refutation is impossible. Prevarication of the witness upon the principal part of his case, beyond all doubt, by every calculation of chances, there will not be. But you will be defended by counsel; and the court before whom you are tried will assuredly have you acquitted, if the villain, who has immoveably told a consistent, firm tale,—though not contradicted,—though not touched, upon the story itself,—tells the least falsehood upon the most unimportant particulars on which your advocate shall examine him. My lords, I ask for the Queen no other justice than this upon which you all rely, and must needs rely, for your own escape from the charge of unnatural crimes! I desire she may have no other safety than that which forms the only safety to any of your lordships in such cases, before any Court that deserved the name of a Court of justice, where it might be your lot to be dragged and tried!

I am told that the sphere of life in which Bergami, afterwards promoted to be the Queen's chamberlain, originally moved, compared with the fortune which has since attended him in her service, is of itself matter of suspicion. I should be sorry, my lords, to have lived to see the day, when nothing more was required to ruin any exalted character in this free country, than the having shewn favour to a meritorious servant, by promoting him above his rank in society, the rank of his birth. It is a lot which has happened to many a great man—which has been that of those who have been the ornaments of their country. God forbid we should ever see the time, when all ranks, all stations in this community, except the highest, were not open to all men; and that we should ever reckon it of itself a circumstance even of suspicion in any person—for neither sex can be exempt from an inference of such a nature if it is once made general and absolute,—that he has promoted an inferior to be his equal! Let me, however, remind your lordships, that the rapidity of the promotion of Bergami has been greatly overstated; and the manner in which it took place is a convincing proof, that the story of love having been the cause of it, is inconsistent with the fact. Now, this I state, from a distinct recollection of the dates in the evidence before you. Believe Majocchi or Demont, and three weeks after Bergami's arrival in the household, he was promoted to the Queen's bed. How was it with respect to her board? Because, after that, he continued in the situation of courier; he dined with the servants, and lived not even with the chamberlains; certainly not with those gentlemen, for they were at her table, as usual. He continued to dine with the servants at Genoa; there, notwithstanding Majocchi's story, it is proved to your lordships that he did not dine with Her Majesty. He continued as a courier, even after he

had once sat at Her Majesty's table by accident, by one of the accidents usual in travelling. It appears even in the evidence, (believing it to be true), that the Queen sat at the table where he was for the space of one day. He, however, still continued a courier; and it was only on the eve of the long voyage, that he was admitted to her table, commencing with the journey to Mont St. Gothard. He continued in his situation of courier, still in livery, until, by degrees, he was promoted, first to travel in a carriage of his own, instead of riding on horseback. Then he was promoted occasionally to sit at the same table with the Queen, and at last he was appointed a chamberlain generally. My lords, this is not consistent with the story told of Naples. Shew me the woman, particularly the amorous, the imprudent, the insane woman her Majesty is described to be by these perjured witnesses, who would have allowed her paramour, after indulging in all the gratifications described at Naples, for weeks and months, to continue for months, and almost for years, in an apparently menial capacity! My lords, this is not the rapidity of pace with which love promotes his favourite votaries; it much more resembles the sluggish progress with which merit wends its way in the world, and in courts. He was a man of merit, as you will hear in evidence,—if you put me on calling any. He was not of the low origin he has been described to be. He was a person whose father held the situation of a landed proprietor, though of moderate income, in the north of Italy. He had got into difficulties, as has happened to many of the Italian gentry of late years; and his son, if I mistake not, had sold the family estate, in order to pay his father's debts. He was reduced—but he was a reduced gentleman. When he was in the service of General Pino he was recognized as such. The General repeatedly favoured him as such: he has dined at his

table, General Pino being Commander-in-chief in the Milanese. He thus sat at the table of an Italian noble in the highest station. He has dined at his table during the Spanish campaigns. He was respected in his station—he was esteemed by those whom he served at that time. They encouraged him, as knowing his former pretensions and his present merits; and when he was hired, he was proposed by a gentleman who desired to befriend and promote him, an Austrian nobleman, then living in Italy, in the Austrian service—he was proposed to the Queen's chamberlain as a courier, there being a vacancy, and was hired without the knowledge of her Majesty, and before she had even seen him. The Austrian nobleman, when he offered him as a courier, said, he fairly confessed he hoped, if Bergami behaved well, he might be promoted, because he was a man whose family had seen better days, because he was a faithful servant, and because he had ideas belonging rather to his former than to his present situation. It was almost a condition of his going, that he should go for the present as a courier, with the expectation of soon filling some other and higher place.

I do not dwell on this, my lords, as of any importance to the case; for whether I shall think it necessary to prove what I have just stated or not, I consider that I have already disposed of the case in the comments which I have made upon the evidence, and in the appeal which I have made to the general principles of criminal justice. But, as the conduct of Her Majesty has been so unsparingly scrutinised, and as it is important to shew that even impropriety existed not, where I utterly defy guilt to be proved, I thought it requisite to dwell on this prominent feature in the cause. If the Queen had frequented companies below her station—if she had lowered her dignity—if she had followed courses which, though not guilty ones,

might be deemed improper in themselves and inconsistent with her high station—if she had been proved guilty of any unworthiness—I could have trod upon high ground still. But I have no occasion to occupy it. I say, guilt there is none—levity there is none—unworthiness there is none. But if there had been any of the latter, while I dared her accusers to the proof of guilt, admitting levity and even indecorum, I might still have appealed to that which always supports virtue in jeopardy, the course of her former life at home, among her own relations, before she was frowned upon here—while she had protection among you—while she had the most powerful of all protection, that of our late venerable monarch. I hold in my hand a testimonial—which cannot be read, and which I am sure will not be weighed, without the deepest sense of its importance; above all, without a feeling of sorrow, when we reflect upon the reign that has passed, and compare it with the rule we live under. It is a melancholy proof—more melancholy, because we no longer have him who furnishes it amongst us—but it is a proof how that illustrious sovereign viewed her, whom he knew better than all others—whom he loved more than all the rest of her family did—even than those upon whose affection she had a greater claim—nay, whom he loved better than he did almost any child of his own. The plainness, the honesty, the intelligible, and manly sense of this letter are such, that I cannot refrain from the gratification of reading it. It was written in 1804:—

"Windsor Castle, Nov. 13, 1804.

"My dearest Daughter-in-Law and Niece,—Yesterday, I and the rest of my family had an interview with the Prince of Wales at Kew. Care was taken on all sides to avoid all subjects of altercation or explanation, consequently the con-

versation was neither instructive nor entertaining; but it leaves the Prince of Wales in a situation to shew whether his desire to return to his family is only verbal or real"—(a difference which George III. never knew, except in others)—"which time alone can shew. I am not idle in my endeavours to make inquiries that may enable me to communicate some plan for the advantage of the dear child you and me with so much reason must interest ourselves in; and its effecting my having the happiness of living more with you is no small incentive to my forming some ideas on the subject; but you may depend on their being not decided upon without your thorough and cordial concurrence, for your authority as mother it is my object to support.

"Believe me, at all times, my dearest daughter-in-law and niece, your most affectionate father-in-law and uncle,

"George R."

Such, my lords, was the opinion which this good man, not ignorant of human affairs, no ill judge of human character, had formed of this near and cherished relation; and upon which, in the most delicate particulars, the care of his grand-daughter and the heir of his crown, he honestly, really, and not in mere words, always acted.

I might now read to your lordships, a Letter from his illustrious successor, not written in the same tone of affection—not indicative of the same feelings of regard—but by no means indicative of any want of confidence, or at least of any desire harshly to trammel his Royal Consort's conduct. I allude to a letter which has been so often before your lordships in other shapes, that I may not think it necessary to repeat it here. It is a permission to live apart, and a desire never to come together again; the expression of an opinion, that their happiness was better consulted, and pursued asunder; and a very plain indication, that Her Majesty's conduct should at least not be watched with all the

scrupulousness, all the rigour, all the scrutinising agency, which has resulted in bringing the present Bill of Pains and Penalties before your Lordships. [Cries of "Read, read!" Mr. Brougham accordingly read the Letter, as follows:]

"MADAM,—As Lord Cholmondely informs me, that you wish I would define in writing, the terms upon which we are to live, I shall endeavour to explain myself upon that head with as much clearness and with as much propriety as the nature of the subject will admit. Our inclinations are not in our power, nor should either of us be held answerable to the other, because nature has not made us suitable to each other. Tranquil and comfortable society is, however, in our power; let our intercourse, therefore, be restricted to that, and I will distinctly subscribe to the condition which you required,* through Lady Cholmondely, that even in the event of any accident happening to my daughter, which I trust Providence in its mercy will avert, I shall not infringe the terms of the restriction, by proposing at any period, a connexion of a more particular nature. I shall now finally close this disagreeable correspondence, trusting, that, as we have completely explained ourselves to each other, the rest of our lives will be passed in uninterrupted tranquillity. I am, Madam, with great truth, very sincerely yours,

GEORGE P.

"WINDSOR CASTLE,
*April* 30, 1796."

My lords, I do not call this, as it has been termed, a Letter of Licence; such was the term applied to it, on the former occasion, by those who are now, unhappily for the Queen, no more,—those who were the colleagues and coadjutors of the present ministers,—but I think it such an epistle as would make it matter of na-

* The Queen to her last hour positively denied ever having required any such condition, or made any allusion to the subject of it.

tural wonderment to the person who received it, that her conduct should ever after,—and especially the more rigorously the older the parties were growing—become the subject of the most unceasing and unscrupulous watching, prying, spying, and investigation.

Such then, my lords, is this Case. And again let me call on you, even at the risk of repetition, never to dismiss for a moment from your minds, the two great points upon which I rest my attack upon the evidence;—first, that the accusers have not proved the facts by the good witnesses who were within their reach, whom they had no shadow of pretext for not calling;—and secondly, that the witnesses whom they have ventured to call are, every one of them, irreparably damaged in their credit. How, I again ask, is a plot ever to be discovered, except by the means of these two principles? Nay, there are instances, in which plots have been discovered, through the medium of the second principle, when the first had happened to fail. When venerable witnesses have been seen brought forward—when persons above all suspicion have lent themselves for a season to impure plans—when no escape for the guiltless seemed open, no chance of safety to remain—they have almost providentially escaped from the snare by the second of those two principles; by the evidence breaking down where it was not expected to be sifted; by a weak point being found, where no provision, from the attack being unforeseen, had been made to support it. Your lordships recollect that great passage—I say great, for it is poetically just and eloquent, even were it not inspired—in the Sacred Writings, where the Elders had joined themselves in a plot which had appeared to have succeeded, "for that," as the Book says, "they had hardened their hearts, and had turned away their eyes, that they might not look

at Heaven, and that they might do the purposes of unjust judgments." But they, though giving a clear, consistent, uncontradicted story, were disappointed, and their victim was rescued from their gripe, by the trifling circumstance of a contradiction about a tamarisk tree. Let not man call those contradictions or those falsehoods which false witnesses swear to from needless and heedless falsehood, such as Sacchi about his changing his name —or such as Demont about her letters—such as Majocchi about the banker's clerk—or such as all the other contradictions and falsehoods not going to the main body of the case, but to the main body of the credit of the witnesses—let not man rashly and blindly, call these things accidents. They are just rather than merciful dispensations of that Providence, which wills not that the guilty should triumph, and which favourably protects the innocent!

Such, my lords, is the Case now before you! Such is the evidence in support of this measure—evidence inadequate to prove a debt—impotent to deprive of a civil right—ridiculous to convict of the lowest offence —scandalous if brought forward to support a charge of the highest nature which the law knows—monstrous to ruin the honour, to blast the name of an English Queen! What shall I say, then, if this is the proof by which an act of judicial legislation, a parliamentary sentence, an *ex post facto* law, is sought to be passed against this defenceless woman? My lords, I pray you to pause. I do earnestly beseech you to take heed! You are standing upon the brink of a precipice—then beware! It will go forth your judgment, if sentence shall go against the Queen. But it will be the only judgment you ever pronounced, which, instead of reaching its object, will return and bound back upon those who give it. Save the country, my lords, from the horrors of this catastrophe—save yourselves from this

peril—rescue that country, of which you are the ornaments, but in which you can flourish no longer, when severed from the people, than the blossom when cut off from the roots and the stem of the tree. Save that country, that you may continue to adorn it—save the Crown, which is in jeopardy—the Aristocracy which is shaken—save the Altar, which must stagger with the blow that rends its kindred Throne! You have said, my lords, you have willed—the Church and the King have willed—that the Queen should be deprived of its solemn service. She has instead of that solemnity, the heartfelt prayers of the people. She wants no prayers of mine. But I do here pour forth my humble supplications at the Throne of Mercy, that that mercy may be poured down upon the people, in a larger measure than the merits of its rulers may deserve, and that your hearts may be turned to justice!

[Mr. Brougham finding the impression made by his case upon the House to be very strong, resolved at once to present Mariette Bron for examination, and instantly to call for judgment. With this view he left the House to summon the witness; but she was not to be found; Mr. Williams, therefore, proceeded with his truly able and, to the elucidation of the case, invaluable argument; and afterwards some suspicious circumstances came to the knowledge of Her Majesty's advisers which made it impossible to call her maid with any regard to the interests of justice.]

# SHORT ACCOUNT

OF

# MR. DENMAN'S SPEECH,

ON SUMMING UP THE EVIDENCE

FOR

# THE QUEEN,

OCTOBER 24TH AND 25TH, 1820.

# MR. DENMAN'S SPEECH.

THE examination of Her Majesty's witnesses closed on the 23d of October, when the counsel for the Bill applied for farther delay, in order that Colonel Browne and others might be sent for, to contradict some parts of the evidence. This proposal was treated as monstrous, and it was formally withdrawn. The Queen's advocates indignantly exclaimed, that it shewed as much regard for her feelings, as if she had been the inanimate subject of some chemical experiment. One or two trifling particulars were however allowed to be explained; and at eleven o'clock on the following morning the evidence in this extraordinary process was at length brought to a close.

The duty of summing up the Queen's case then devolved on her Solicitor-general, Mr. Denman. The House of Lords offered him time for preparation: the Chancellor invited, and rather pressed him to accept it: he however preferred commencing his address on the instant, when all particulars were fresh in his own memory, and in that of the judges.

Amidst all the filth and obscenity which overloaded the proceedings, some great principles of public morality were prominently conspicuous. By far the greatest point, the most important, the most fully estimated by the reflecting, the most warmly felt by the multitude, was the prosecutor's disqualification. The example of a husband punishing infidelity in a wife, whom in the very hour of marriage he had insulted and openly abandoned,—whom he had replaced by a mistress, while he offered to his consort an equal privilege,—who owed to her union with him neither endearment, nor protection, nor common courtesy,—who knew in him no one quality of a husband but his jealousy, and had indeed for twenty-four years been only made aware of his existence by unceasing attempts to harass and destroy her,—was an example which the world had never before witnessed, and which all classes except the House of Lords, determined should never be set in England.

That the prosecutor was the king of the country, made the case the more flagrant. This gave the proceedings the appearance of a deliberate sacrifice of the first principles of morality to capricious hatred, engendered by the known instinct of antipathy towards those we have wronged: it was regarded as one of those freaks of bare-faced power, avouched by the will alone, which threatens the general security, by sweeping away the bulwarks of religion and of justice. The flimsy pretence, that the open scandal of the Queen's life demanded public exposure, was refuted at every point; first, by the absurdity of distinguishing for this purpose between the wife of a King and the wife of a Prince Regent; secondly, by the offer of L.50,000 a-

year, if she would pursue the same course anywhere out of England; but lastly and most effectually, by the evidence given on the trial, when the intercourse imputed, even if believed to be real, instead of being public and notorious, was so cunningly contrived and so secretly carried on, that waiters from inns, where Her Majesty reposed for a single night, were pressed into the service, to repeat the observations made through key-holes and upon beds,—while those domestic traitors who had daily means of knowledge, deposed but to two or three occasions, on which, from suspicious circumstances and opportunities, guilt might with some plausibility be inferred.

Other general considerations, inferior to these in importance, yet of a highly interesting character, worked strongly on the public mind;—the certainty that excited passions in the great would be supplied with mean instruments of hostility; the ease with which perjury and conspiracy are called into action by the immense rewards that must be publicly proffered; the method of proceeding, so abhorrent to the principles of the Constitution; the alarming readiness with which a ministerial majority had volunteered the invidious office of judging in a suit which ought never to have been commenced, and could not go forward without incalculable injury to morals and decency. All these matters, sinking deep in the minds of a free, just, and enlightened people, were plainly discovered from the first to have decided the fate of the measure, though the time and mode of its defeat were of course doubtful.

At this important period, the opponents of the Bill of Pains and Penalties were delighted to find that the

evidence, so pompously paraded beforehand in private —pervading all society in whispers in the shape of rumours and reports,—reports from diplomatic agents, communications from foreign ministers, statements by commissioners at Milan, handed over in Green bags to select committees, that the minds of leading members of both houses might be debauched, before they should act in the character of judges—crumbled into dust and shrank to nothing, when exposed to the open air. The case was an absolute failure; the witnesses when seen and heard in public turned out to be worthy of their cause.*

Mr. Denman commenced his address by the most unqualified assertion of his client's innocence. "I therefore, with your lordships' permission, without further preface, will proceed to make those observations upon the case, as it now lies before you, which have satisfied my own mind,—which have satisfied the minds of all my learned friends,—which have satisfied, I think I may say, the minds of the whole people of England, of all the civilized nations of the world, who are anxiously looking on, to see this great and unexampled spectacle brought to a conclusion, that Her Majesty the Queen has established a defence, which entitles her to a complete acquittal of all those charges

* That the opinion upon the treatment of the Queen by her husband was not confined to Her Majesty's friends, appears from a Note in Mr. Wilberforce's Journal, published in his Life by his Sons. "Heard a violent speech from Creevey, and another from Bennet, speaking of the Queen's ill-usage when she first came to this country, and *too truly alas!* but where is the use of talking thus? Surely it can only tend to produce insurrection. I am glad, however, to hear that the Coronation will be probably put off. Oh what a comment is all this on 'Be sure your sin will find you out!'" Vol. v. p. 68.

which your lordships have permitted yourselves to try against the conduct of that illustrious person."

Though it could hardly be expected that any body of men would, without necessity, and against sound policy, have assumed the office of judges in this great affair, who were not predetermined to condemn, no chance of obtaining a verdict from these adverse jurors was to be thrown away. And as, in some angry conflicts at the bar, and some altercations even with members of the House itself, some degree of personal irritation had been excited, Mr. Denman hastened to conciliate his hearers by freely, voluntarily, and from his heart disclaiming all purpose of individual offence. He rested his apology on a state of highly excited feeling,—that soreness of mind produced by sympathy with the unprovoked sufferings of the royal client. "It has not been my object to give uneasiness; but I have felt it deeply. And it is impossible for any mind which comes with the right feelings of a man to the contemplation of this case, not to expect the fullest indulgence for any thing that may have passed in the course of it; because it is impossible not to feel, that the illustrious client whose immediate interests are confided to our care, has been, perhaps I might say from the first moment that she placed her foot in this country to the hour at which I am now addressing your lordships, the victim of cruel oppression, of grievous and irreparable wrong. My lords, that galling and degrading sensation has attended us through the whole of these proceedings; it must plead our excuse for any thing that may have been wrong and disrespectful in our manner. I trust I have said enough upon the

subject; and I proceed to that case which it is my duty to observe upon."

He then proceeded to analyse the preamble of the Bill, and was shortly after engaged in investigating the proofs which had been offered to maintain it. This compelled him to do in some instances what he always expressed the greatest desire to avoid,—to tread in the steps of his leader. In the various preliminary discussions, where he had immediately followed Mr. Brougham, that gentleman had handed over every subject to his hands, completely exhausted and bare. He compared it to one Indian tribe which precedes another, but does not leave its hold upon the district, till it has consumed all its produce by withering fire. There was novelty, indeed, in the additional facts established by the witnesses for the accused, and in contrasting them with the prosecutor's charges and testimony; but discussions of this nature never can be accurately reported, and these have now lost all interest for the general reader.

He observed on the only circumstance which could injure her Majesty, after the evidence that had been heard,—the danger that the impression made by the original statement should remain, in spite of the refutation,—the foul advantage possessed by every calumniator of female chastity, that the name is polluted and dishonoured by revolting associations, though the world should be convinced of the falsehood of every charge. After quoting a clever paper from the latest number of the Quarterly Review, to that effect, but applied to another subject, he proceeded: "It is unhappily too true; and in a case where female honour is con-

cerned, the very existence of the charge is, in some degree, as great a punishment as if it was distinctly proved instead of being contradicted. The old adage, "*Calumniando semper aliquid hæret,*" was never more distinctly made out, than in the present case. The evidence of the infamous and diabolical persons brought forward against Her Majesty has had its effect; and although it has been disproved, I flatter myself, in a manner so satisfactory that no reasonable mind can believe any one of the particular charges adduced, still, the mere fact of their having been promulgated, will leave punishment, will leave suffering, which no reasoning, no time, no reparation, will ever be able to remove."

After casting some ridicule on the pretence set up by the officers of the Crown, that they did not attend as advocates of any party, but merely as assisting the House of Lords in the development of truth, he remarked upon a solemn prayer which had been uttered by the King's Solicitor-general, Sir John Copley,* that the Queen's character might emerge clear from the enquiry,—"that Her Majesty might be able to establish her full and certain innocence." "My lords, it was gratifying to hear that prayer, the first that had been breathed for the welfare of Her Majesty in mind, body, or estate, by any one of the officers of her husband. The omen was a happy one; the Queen owed thanks to my learned friend for his pious and charitable supplication, and both were bound to pour them out to Heaven, when they per-

* Now Lord Lyndhurst.

ceived how amply it had been successful, at every step of the enquiry. Such a prayer so granted, will no doubt be the first step towards restoring Her Majesty's name to the ritual of the Church, from which it has been so illegally removed. I cannot deal with one so devoutly anxious to see Her Majesty acquitted, in the same spirit in which it might be proper to approach other active promoters of the persecution. To them I might whisper words of professional condolence on their signal failure, but my learned friend is to be greeted with felicitations at each of the numerous points where a falsehood was detected, or a witness broke down. To them might be addressed the congratulation of Cicero to Catiline, when he sent him forth to join the unprincipled crew of his conspirators. Others, indeed, might blush to see collected around them 'conflatam improborum manum,' but to my learned friend who took no part in the contest, who wished only for impartial inquiry, and prayed to Heaven that that enquiry might terminate in the triumph of the accused, the discomfiture of his witnesses one after another must have yielded unmixed satisfaction. 'Hic tu quâ lætitiâ perfruere, quibus gaudiis exultabis, quâ in voluptate bacchabere, cum in tanto numero tuorum comitum neque audies virum bonum quenquam, neque videbis.'"

The next general observation applies to the impossibility of accounting for all circumstances that may be scraped together to aid the inference of guilt, for two reasons—the lapse of time, and the fact of their belonging to the conduct of another. Who can explain ordinary events at the distance of six years? Still more, how could an innocent lady be aware of the cause of any such

proceedings in her servant, as excited suspicions of his deviations from propriety? Yet the demeanour of Bergami, in the absence of the Princess, and many years before, was strained to make out that *prima facie* case against her, which, if innocent, she never could remove by explanations, because she must have been ignorant of the causes that produced it. To infer guilt, then, from facts like these, is evidently not to prove it, but to assume it as proved, and reverse every reasonable principle of procedure.

One of the most marvellous features of a case so perfectly unique, touched on by Mr. Brougham, was forcibly dwelt upon by Mr. Denman,—the *corpus delicti* itself was never proved. Those who brought Barbara Kress from Carlsruhe, at a cost ten times as great as her yearly wages, to prove one undefined stain upon a bed, had also secured the laundress who for six long years must have constantly inspected the bed-linen and all the other linen of every individual member of the family, and called her not as a witness. Annette Pressling was in Cotton Garden, in company with the rest of the witnesses; and the prosecutors dared not present her testimony to the Lords!

The facility with which conspiracies for false accusation may be formed and kept together, was illustrated by examples both ancient and recent, both foreign and domestic. Journals of our judicial proceedings yielded striking instances that perjury is a marketable commodity even here. Roger North's memoir of his brother Sir Dudley, the Turkey merchant, showed that in semi-barbarous countries the false witness is much more safely to be relied on than the true,—"Our merchant

found by experience (he says) that in a direct fact a false witness was a surer card than a true one; for if the judge has a mind to baffle a testimony, an honest harmless witness, that doth not know his play, cannot so well stand his many captious questions as a false witness used to the trade will do; for he hath been exercised, and is prepared for such handling, and can clear himself when the other will be confounded."

Nor is the subject of discarded servants passed over in silence, with their unrestricted means of confirming falsehood by truth, and engrafting it on realities—or the influence of money over mean men, undeservedly admitted to situations of confidence—or the power of importunity in the great to command the services of their creatures for the ruin of their victims, when the lowest passions are at work in the highest places. Thus we are told by the Comte de Grammont, that when James Duke of York wished to renounce the wife whom he had married in exile, the daughter of the great Earl of Clarendon, four of his friends, gentlemen of the highest rank, met together to consult on the best means of effecting so just and rational an object, and three of them determined to declare, if required, in public and writing, that she had thrown off in their presence the restraints of modesty and decorum, and the fourth that he had enjoyed the last favour a woman can bestow, adding, in the gaiety of their hearts, that he must be a cold-hearted friend who could hesitate to give such easy proofs of his attachment.

The symptoms of fabricating facts and training witnesses, by the discipline of drilling and rehearsal, were strongly brought to light. The Sicilian skipper and

his nephew were selected to make out the case of open indecency on board of the polacca; the part assigned to Majocchi and Demont was the proof of adulterous intercourse on shore; both sets of witnesses were in the vessel, but the latter set saw nothing of the libidinous excesses denounced by the former. The latter, indeed, during the three following years, saw no decisive facts, but much cause for unfavourable surmise. The wanton lovers who, at sea, exposed their careless embraces to every eye, suddenly when on shore became models of cautious prudence. Thus the evidence given by each set of witnesses, taken separately, however improbable, was in no degree inconsistent; but the facts deposed to by both sets were so utterly inconsistent with all our experience of human nature, that both could not be true, and of course neither could be trusted.

One great defect in the case against Queen Caroline, was the necessity of proving it by foreigners. Beyond the reach of satisfactory inquiry, removed from the influence of that public opinion to which they were accustomed, and to which the most shameless of mankind pay a reluctant and involuntary deference, the temptation to earn high rewards by unscrupulous evidence, was generally felt, and their sense of the obligation of an oath more than doubted. Like every other general observation in this remarkable case, it was exemplified by particular incidents that occurred.

One of the Queen's witnesses was William Carrington, a servant of Sir William Gell, who directly contradicted Majocchi in several material facts, involving assertions deliberately made by himself. "William Car-

rington had no sooner left this bar," said Mr. Denman, "with the universal confidence and approbation of every honest man who saw and heard him, than the materials for his cross-examination are prepared,—by whom? Not by the agent, or attorney, or commissioner, but by a member of your Lordships' House, a powerful member of the Government—in a word, by the First Lord of the Admiralty. Carrington described himself as having been a midshipman in the Poitiers, and as having left the service with the good opinion of his former captain, that gallant officer, Sir John Beresford. He was cross-examined with the greatest minuteness, with the advantage of searching the ship's books, and of communicating with his captain, who is brought to town for the purpose out of Yorkshire. Do I complain of this? By no means. If it were not irregular, I would tender my thanks to the noble lord for the ability and zeal with which he conducted the cross-examination. It ended in proving the witness's account of himself strictly true, and his captain bore willing testimony to his good qualities. He illustrates in his person the remark of a German traveller in this country, that gentlemen were found in every class of society; wherever that man's lot may be cast, he is a gentleman of nature's making. What, if we had possessed the same advantage? The same powers of searching and enquiring? Would the result have been the same with the Sacchis, the Rastellis, the Guggiaris?"

There were two passages in this speech of so remarkable a nature, that they cannot be omitted in any notice of it;—those which assailed two royal personages, the King then upon the throne, and his immediate suc-

cessor, at that time Duke of Clarence. The former exposed himself to personal attack by the prosecution; he challenged inquiry into his conduct as a husband, which was indeed an essential part of his own case. Nor was it possible to refrain from canvassing the examples of similar proceedings in former times, and while some points in the history of Henry VIII. bore a general resemblance to the accusation, an almost exact parallel was found between the accused and the Roman Empress Octavia. Dr. Parr pointed out the identity of their fortunes to Mr. Denman,—the capricious offence taken in the very moment of their union, the adoption of a mistress in her place, the desertion, the investigation, the exile, the triumphant return amidst the acclamations of the people, the renewed inquiry, the false evidence screwed out of her domestics, not indeed by bribes but by torture. The likeness failed at the point where the principal witness in each case betrayed her personal character. The French soubrette swearing to the falsehood of her former panegyrics on the benefactress she sought to destroy, the Roman attendant hurling the boldest defiance and invective at the commissioner, who grossly aspersed the purity of her imperial mistress.

In laying before the Lords the wrongs of his client in the burning words of Tacitus, and fixing on this prosecution the just odium of so shameful a prototype, Mr. Denman incurred some censure. He was condemned for "calling the King Nero," by those who without emotion heard the counsel for the prosecution apply to the party under trial, the name of Messalina. He was, with Mr. Brougham, after the Queen's death, stript of

the rank they owed to their offices under her Majesty; and all her counsel remained for years excluded from their fair professional advancement. At length all were restored except Mr. Denman; and it then appeared that he was visited with the royal displeasure, not for this parallel, but for a sentence from Dio Cassius,* mistakenly supposed by His Majesty to have been applied offensively to him. In the autumn of 1828, Mr. Denman's memorial, disclaiming the imputation, was at his request laid before the King by his then prime minister the Duke of Wellington, who went much farther, and with difficulty obtained from the reluctant monarch, that rank which the advocate had not solicited at his hands. If "Peace hath her victories not less renowned than War," this persevering effort of a frank and generous spirit, prompted by a sense of justice, and stimulated by the manly perception of the necessity for independence in the advocate, may be thought to add some lustre even to the name of Wellington.

The other passage above alluded to, is a vehement invective against the Duke of Clarence whose known devotion to his elder brother led him into the ready credence of facts derogatory to Her Majesty, which he had the imprudence to circulate in conversation, and among the peers then engaged in what was called her trial. The necessity of counteracting this influence was apparent, but the reproof must have given pain to him who uttered it, when in after years the sovereign shewed an entire absence of resentment for the offence given to him while a subject. William the Fourth, blessed with

* See Bayle's Dictionary, art. Octavie.

the immeasurable advantages of education and intercourse among the middling classes of society, had the sense and candour to perceive that the sufferer from the performance of the duty of an advocate has no just right to complain. He received Mr. Denman with marked civility at his first levee after his accession to the throne; acquiesced without hesitation in his appointment as Attorney-general, on the change of government in November 1830; two years afterwards, consigned to him as chief justice, "the balance and the sword," and expressed the utmost pleasure in acceding to Lord Grey's application to raise him to the peerage.

Numerous portions of the evidence were selected for comment, and towards the conclusion of the whole argument, the following passage occurs:—"We have been told of the Queen's general conduct, as furnishing decisive proof of her guilt. My lords, I will abide by that test, and appeal to her general conduct as establishing her innocence. I ask you whether it is possible, if she were degraded by the indulgence of that low passion, that she should in the first place discard every one of the servants as soon as they were possessed of her fatal secret, and that she should afterwards have been willing to renounce her paramour. Look to all that we know of human nature. The most certain consequence of indulging such an attachment is, that all worldly considerations are lost sight of. "Not Cæsar's empress would she deign to prove." No, having become the partner in guilt of her menial servant, she would have preferred his society in the lowest retreat of vice on the Continent, to all the dignity, the wealth and splendour, which the world could have laid at her feet. She was

not required, however, to make the sacrifice. All the comforts and luxuries were obtruded upon her acceptance, with full permission to enjoy them at Pesaro, or on the lake of Como, and at the same time repose in those embraces for which she is charged with surrendering her honour. Does she accept the offer? She disdains it, and plants herself on the shore of England, and challenges the proof that all the power of England can produce against her, because she knows that the truth will bear her through, and because she values character more than all other possessions, including life itself.

"Contrast her general conduct with that of her accusers! The death of her only child is followed by a frightful conspiracy to effect her ruin. The death of her last remaining protector, whose name was still in some degree her safeguard, though his affection could no longer be displayed, that death was announced to her in no terms of kind condolence or common respect, or decent ceremony. That was the occasion when the Cardinal Gonsalvi, knowing whom he should please, and what schemes were in progress, ventured to forestate the decision of the parliament on the Bill that now engages its attention. With him she was neither a Queen, on the death of her husband's father, nor a Princess of Wales, as she had been till that event, but he strips her of all down to the title she had before her marriage. The first Gazette which records the change of rulers, inflicts a wound on her who is become the first subject of the realm. Of the new reign—an era marked hitherto by mercy and forgiveness, when even traitors are spared and felons pardoned, and the amiable

prerogative of the Crown called into lavish use—the first act of that reign is the most illegal and unchristian in the annals of the monarchy; the second is this Bill, a bill of divorce and degradation against the consort of the King, introduced by his ministers.

"And now, my lords, what is to become of this Bill? Or rather, what has become of it? As a Bill of Divorce, it was defeated before it was read a first time; the mere fact of a six years' residence abroad, permitted by the husband, answers his claim for a divorce, whatever the misconduct of the wife. That letter of license, so recently after the marriage, and so spontaneously granted, is of itself an answer to it as a bill for a divorce. As a Bill of Pains and Penalties—a bill of dethronement and degradation—it still lingers on your lordships' table; if you see fit to gratify the motives that impelled the charge, if you have the nerve to proceed against the persecuted and injured woman who has so manfully met it, I can only say it is at your pleasure so to do. But I am confident that your honour, your justice, your humanity, will force you to take part with the oppressed, and not give the victory to those who have so wantonly oppressed her."

In the course of explaining why some witnesses who might have been expected for the defence had not appeared, he took occasion to introduce the name of Bergami. "Our case is already proved, and we do not think that either expediency or justice requires us to overload these Minutes of Evidence, already too vast and unwieldy to be well considered in their important details, with needless testimony. We cannot admit that we are bound to go one step farther. We have

heard the challenges and defiances of our opponents. We have been told that Bergami might be produced as a witness in our exculpation, but we knew this to be a fiction of lawyers, which common sense and natural feeling would reject. The very call is one of the unparalleled circumstances of this extraordinary case. From the beginning of the world, no instance is to be found of a party accused of adultery being called as a witness to disprove it. We are told, forsooth, that he knows the truth as to that imputed fact, and ought to depose in denial of it at this bar, if it is untrue. The answer is in a word—there is a case against us, or there is none; if none, we have no occasion to repel it by witnesses, and if there is a case, no man will regard the denial of the adulterer. How shameful an inquisition would the contrary practice engender! Great as is the obligation to veracity, the circumstances might raise a doubt in the most conscientious mind whether it ought to prevail. Mere casuists might dispute with plausible arguments on either side, but the natural feelings of mankind would be likely to triumph over their moral doctrines. Supposing the existence of guilt, perjury itself would be thought venial in comparison with the exposure of a confiding woman. It follows that no such question ought in any case to be administered, nor such temptation given to tamper with the sanctity of oaths. My learned friends will not, I believe, show a case in which such a witness has been received or even tendered; and if not, the rule for his exclusion must be founded in principles too deeply seated in the nature and heart of man, to be repealed even upon this occasion, when a culpable complaisance

to power has brought about so many other sacrifices of principle."

He proceeded to advert to a subject of extreme delicacy,—the motives by which the House of Lords might be supposed to be actuated, in taking either course. "May I add one word more? I know that a suspicion has gone abroad,—at least that it has existed within these walls,—that a low rabble had been encouraged to make demonstrations in Her Majesty's favour, and that all the public appearances were to be so accounted for. But the same person who used that expression, was obliged to admit in a few weeks the truth which could not be concealed, that the whole of the generous English people had taken her part. Such is the indisputable feeling among all the soundest and best, the middle, classes of society. There may, for aught I know, be apostles of mischief brooding in some corners, watching to strike a blow at the Constitution, and not unwilling to avail themselves of any opportunity for fomenting open violence. If that be so, consider, my lords, that the righteous verdict of acquittal which I confidently expect, will at once gratify these generous feelings and tend to the security of the State, and baffle those mischievous projectors by taking the weapon from their hand. That just judgment pronounced in the face of the Crown, will endear your lordships to your country, by shewing your resolution to discharge your duty. On the other hand, the disappointment of the well-affected would produce that settled discontent so dangerous to the peace and permanency of institutions, which every patriot ought to regard with apprehension. The violence of an incensed mob could lead only to personal inconvenience,

which I know how your lordships would despise. But I beseech you let not the fear of having that fear imputed to you, bias your minds in favour of an unjust conviction. This would be the worst iniquity of all, the basest kind of cowardice. Weigh then the evidence and the arguments calmly and impartially, and if your understandings are satisfied that all which may once have appeared important has been scattered "like dew drops from the lion's mane,"—if the witnesses for the prosecution shrink to nothing on examination—if their strongest facts are borrowed from their adversaries, but can only be tortured into proof of guilt by detaching them from the whole mass of their evidence—your lordships will never pause to speculate whether your course may be pleasing or displeasing to what, in the jargon of the day, (which I detest) some call a radical mob: you will think of nothing but the ascertainment of truth, and having ascertained it, will, without any regard to consequences, pursue the straight path to which the principles of eternal justice point."

Having discussed portions of the evidence very fully, and interwoven much of general argument on the great features of the case, Mr. Denman alluded to "the mighty efforts of his great leader," and proceeded to demand a verdict of acquittal for their illustrious client. His peroration was not nor could be accurately reported, at the close of so long a speech, in the journals of the day, which have been copied into the Parliamentary debates; but it was nearly as follows:—

"In the earlier stages of this proceeding, my lords, when we more than once remonstrated against your entertaining the charge, and afterwards on the second

reading, when we were permitted to assail the principle of the Bill, we urged upon you the powerful reasons which should have deterred the accuser from undertaking that office, and your lordships from a voluntary assumption of so awful a responsibility. After earnestly deprecating the hard if not dangerous duty of directing strong personal censures against those whose station might have averted them, if their own conduct had not invited and made them necessary, I trust that we have neither shrunk from that duty, nor indulged in needless invectives. We were bound to exact that 'he who would' affect to 'bear the sword of heaven' should not be more severe than holy—to shew that against an exiled wife the husband has no right of divorce—that of licensed deviations from conjugal fidelity, the self-indulgent husband cannot with decency complain—that consequently all inquiry into the truth of the charges would be but a fruitless waste of time, a wanton offence to public morality, a gratuitous hazarding of the respect due to this august assembly, by overstraining its constitutional powers.

"All these considerations your lordships were pleased to overrule, and to disdain the warnings we presumed to offer. You have received the charges; you have constituted yourselves the judges of the proofs on which they rest. But the personal topics cannot even now be thrown aside—they are inseparably interwoven with every part of this unhappy proceeding. Though rejected by your lordships, in your legislative capacity, as motives for declining the inquiry, they cannot be dismissed from your minds in the character of jurymen, wherein you are now to pronounce your verdict upon the evidence.

"Remember then, my lords, the feelings of hostility in which this inquiry commenced, and with which it has now for many years been carried on. Remember the powers that have been embarked in it. The wealth of a royal treasury unsparingly applied—the aid of state alliances freely administered—the learning and talents, the zeal and experience, the knowledge of the world, especially the worst part of the world, which have been so long at work, unrestrained by a single scruple. Your own observation has marked the instruments and the materials with which and upon which the work has been performed. The hosts of discarded servants have played their several parts on this theatre, and have exhibited their resolution to earn the enormous price of their testimony, by an absolute recklessness as to its truth. Which of your lordships would have chosen to stand such an ordeal? Which of you would expose to it any of your female relatives, or even your sons, now perhaps sojourning in the countries where the scene is laid? But that ordeal has been passed, and without harm to the destined victim.

"The inquiry is without example in the history of the civilized world. This illustrious lady has been searched out and thoroughly known; her down-sitting and her uprising have been completely watched; no step she has taken—no word she has uttered—not a look—not a thought—has escaped her prying, assiduous, and malignant enemies. Guilt, if it had existed, must have been proved to the entire conviction of every understanding; and the absence of such positive and overwhelming proof is the establishment of unquestionable innocence.

"Your lordships are indeed engaged in an inquisi-

tion of the most solemn kind. I know nothing in the whole circle of human affairs—I know nothing in the view of eternity, that can be likened to this affecting occasion, except that great day when the secrets of all hearts shall be disclosed. And if you have been armed with weapons and powers and have used them, which Omniscience itself possesses indeed but never employs, for bringing to light the shameful secret of Her Majesty's guilt, but no guilt has been made manifest, and the opposite alternative results, you will feel that some duty is imposed upon you, of humbly endeavouring to imitate also the divine wisdom, justice, and benevolence, which said even to that culprit whose guilt was exposed and acknowledged, but against whom no accuser could come forward to condemn her,—'Neither do I condemn thee. Go and sin no more!'"*

* The Editors of this work have had the greatest satisfaction in being favoured with the preceding pages of remark and correction upon the very eminent Judge's speech, from the only authentic quarter. It is deeply to be lamented that the whole of that great performance has not been thus preserved.

# ARGUMENT

BEFORE

# THE PRIVY COUNCIL,

IN SUPPORT OF

## THE QUEEN-CONSORT'S RIGHT TO BE CROWNED WITH THE KING.

JULY 5, 1821.

# ARGUMENT.

THE question referred to the decision of the Privy Council is, Whether or not the Queen-Consort of this realm is entitled as of right to be crowned when the King celebrates the solemnity of his coronation—and this is a question of constitutional law, to be determined by the principles which regulate public rights; but it may derive illustration from those which regulate the rights of private persons.

First of all, the history of the ceremony must be examined, not as a matter of antiquarian curiosity, but because coronation is the creature of precedent, and rests rather upon practice than principle, although the reason of it also may be traced. If it shall be found that the custom of crowning Queens-Consort has been uniform and uninterrupted, or (which is the same thing) that the Queen-Consort has always been crowned, unless in cases where there existed some insuperable obstacle, and in cases where she voluntarily declined it, the right will be established in the largest sense. But for the purpose of the present argument, it would be sufficient to demonstrate a more limited proposition of fact, viz., that the Queen-Consort has in all cases been

crowned, if married to the King at the time of his coronation—a proposition not the less true, if a case should be found where, from peculiar circumstances, she declined it.

In an ordinary question it would not be necessary to go back beyond the reign of Richard I., the period of legal memory; but for the present purpose it is better to ascend as high as authentic history reaches. Some have doubted whether the Saxon queens, in the early stages of the heptarchy, were crowned; no one denies that they were so in the later periods. There is no occasion for inquiring into the practice when a successful warrior was held up to his followers in the field upon a buckler, and hailed as king, among a crowd of soldiers, and in the necessary absence of his family. But as often as the solemnity assumed the form of a civil observance, the Consort appears to have shared its honours. As early as the year 784, Edelburga, the wife of Brichtrich, King of the West Saxons, having been guilty of attempts against her husband's life, the Queens of Wessex were "deprived of all titles, majesty, and royalty," which Spelman and Selden understand to have included coronation; and this was effected by an express law. How long it remained in force is uncertain; but in 856, Judith, the wife of Ethelwolf, of the same kingdom, was crowned at Rheims, and afterwards received with royal honours in England. (*Selden, Tit. Hon.* cap. 6; *Speed*, p. 300; and *Carte*, i. 295.) Mr. Selden, referring to the universality of the practice in all other kingdoms, says, that "the Saxon Queens were in the late times crowned like other Queens, so that the law of the West Saxons was soon repealed;" as if it were a solitary exception to the general rule in those times. In the Cotton MS. there is a document purporting to be the order of the coronation of Æthelred II. in 978; but Mr. Selden treats it as a general cere-

monial for the Saxon coronations, and says that he had seen it in a hand-writing six hundred years old, which (as he wrote at the beginning of the 17th century) would make the MS. at least as old as Canute. (*Tit. Hon.* c. 8.) All subsequent coronations have followed this order, and its words are remarkable. The ceremony is first described for the King, and then follows the Queen's, as matter of course:—"Finit consecratio Regis: quam sequitur consecratio Reginæ, quæ propter honorificentiam ab episcopo sacri unguinis oleo super verticem perfundenda est, et in ecclesiâ coram optimatibus cum condigno honore, et regiâ celsitudine, in regalis thori consortium, benedicenda et consecranda est; quæ etiam annulo, pro integritate fidei, et coronâ pro æternitatis gloriâ, decoranda est." So much was the coronation of the Consort deemed a necessary part of the solemnity. And in other countries it was so held likewise. Even in France, where the Salic law excluded females from the succession to the imperial crown, they received the honours of the crown matrimonial: their coronation was performed regularly at St. Denys, the King being crowned at Rheims. A *Pontificale* is extant, prescribing the order of the solemnity, confirmed by a bull of Clement VIII.

Advancing to the Kings of the Norman line, it is necessary to look more minutely into the particular instances. William the Conqueror was married, about eleven years before the conquest, to Matilda, who did not come over with him, and was not crowned till 1068. He was crowned on Christmas day 1066, with as little delay as possible after his victory, in order to obtain a more secure title than he thought the sword would give him. The unsettled state of his new kingdom occupied him incessantly for some time, and he was obliged to make frequent visits to his Norman dominions; but as soon as he could carry Matilda to

England, she was crowned, and without any delay. She came after Easter, and on the next great feast of Whitsunday, "Aldredus, Ebor. Arch. in Reginam consecravit." (*Flor. Worcester*, 1090). In this, as in other cases of a like description, before the reign of Henry III., it is doubtful whether the King was himself crowned a second time at his Queen's coronation.

William Rufus having been elected by the Barons in council, upon his father's death, to the exclusion of his elder brother, was crowned immediately after; he died unmarried.

Henry I. was crowned August 5, 1100, four days after his brother's death. He was then unmarried; but having espoused Matilda, 11th November of the same year, she was crowned, according to the *Chron. Saxonicum*, 209. *ed. Gibs.* on the feast of St. Martin; and therefore the coronation appears to have been performed as speedily as possible, or at the same time with the marriage. When the marriage of a queen, or her arrival in England, happened during the interval between two great feasts of the church, the coronation was somewhat delayed in consequence. In 1121, Henry married Alice of Louvain, who was crowned July 30th of that year.

Stephen was elected by the prelates and barons, and crowned 22d December 1135. He swore upon this occasion to maintain the church and nobility in their possessions, and the oath of allegiance taken to him was a qualified one. The prelates swore to be faithful no longer than he should support the church; the barons, after their example, swore fealty on condition of his performing his covenants with them. His Queen was crowned the 22d of March following—having been left abroad, in all likelihood, while the first struggles for the throne occupied her Consort and his followers.

Henry II. was crowned December 19, 1154; his

Queen, Eleanor, is distinctly stated to have been crowned with him, by Gervase of Canterbury, (*Script. Hist. Ang.* 1377), a high authority upon this point, being a contemporary, a monk of the abbey, and author of the *Actus Pontificum Cantuariensium*. Others say she was crowned in 1158, referring probably to Henry's second or third coronation, of which she partook with him. But there was a remarkable incident in his reign, touching which no difference of opinion exists. He was pleased to have his eldest son, Prince Henry, crowned in 1170, and the ceremony was performed without the participation of his Princess, Margaret, a daughter of France. Her father, Louis, complained of the omission—took up arms against England—and put in the front of his causes of war, that Margaret had not been crowned with her husband. A meeting of the sovereigns and an accommodation took place; it was agreed that justice should be done to the princess; and an archbishop and two bishops being sent over from France, crowned her, together with her husband, at Winchester, in 1172.

Richard I. was twice crowned, but never when married, at least in England; for he was only betrothed to Alice, whom he refused to marry, and Berenguella (or Berengaria) of Sicily, whom he espoused at Cyprus, never came to England. No wife of his, therefore, was ever within the four seas; but as if the marriage and her coronation were necessarily connected together, the two ceremonies were performed nearly at the same time in Cyprus.

His successor, King John, had two wives,—Arvisa of Gloucester, and Isabella; the latter of whom only is known for certain to have been crowned, and immediately after her marriage. If Arvisa was not crowned also,—a fact which cannot be proved,—the reason may be easily given. John came over in great haste to seize on the

crown; he left his Duchess in Normandy, and arriving at Hastings on the 25th of May 1199, reached London on the 26th, and was crowned the day after. Disturbances immediately broke out in his duchy; and on the 19th of June he was obliged to hasten back. Before those troubles were composed, he was smitten with the charms of Isabella, and pursued measures for obtaining a divorce from Arvisa, if indeed he had not, as some historians contend, already commenced those proceedings. Certain it is, that the reason for dissolving the marriage was not now for the first time broached, the archbishop who solemnized it having at the moment protested against its validity, upon the ground of consanguinity. Now, Arvisa, from the time of John's accession till her divorce, never was in England; and the process of divorce began almost immediately after his coronation. She may have been crowned abroad; there is no evidence against it; the ceremony was so much a matter of course, that chroniclers may well have been silent on it; but if it never took place, the circumstances satisfactorily explain the omission.

Thus from the Conquest to the reign of King John inclusive, there were eight coronations performed on account of Kings, and for the purpose of honouring or of recognising them. During the same period there are as many coronations of Queens known to have been solemnized on their account alone, and for the purpose of honouring or of recognising them, independent of their Consorts; at least, if the King on such occasions repeated the ceremony of his own coronation, the principal object of the solemnity was crowning the Queen, he having himself been crowned before.

Henry III. was unmarried when, at his accession in 1216, and afterwards in 1220, he was crowned. On the 14th January 1236, he married Eleanor of Provence, and six days after she was crowned alone, as ap-

pears by the *Red Book in the Exchequer*. He attended, wearing his crown, as we there learn, but he was only a spectator; and M. Paris (355. ed. 1684), relates that the sword of St. Edward, called the curteine, was borne before him by the Marshal, in token of his right to restrain the King if he should do amiss (in signum quod Regem, si oberret, habeat de jure potestatem cohibendi). So entirely was the Queen the principal personage at this solemnity.

Edward I. was crowned August 19, 1274, with his Queen Eleanor: in 1291 he married Margaret of France, at Canterbury, where, in all probability she was crowned. There being no evidence of the event, is no argument against its having happened, when the regularity with which Queens were crowned on their marriage, is considered; and in Henry the Seventh's time, it was distinctly asserted and never contradicted, that no Queen, since the Conquest, had ever been debarred of this right.

Edward II. and his Queen Isabella, were crowned together, July 25, 1308; and Edward III. being unmarried, was crowned alone, July 26, 1326; but a year after, he married Philippa, who was crowned alone in April 1327. A proclamation is preserved in the *Close Roll in the Tower*, summoning the Barons of the Cinque Ports, to attend and perform the canopy service, as they were wont at other coronations. This is the same proclamation which issues to summon the Barons at the coronation of Kings alone, or of Kings with their Consorts.

Richard II. was crowned July 16, 1377, and he married January 14, 1382, his first wife, Anne, who was crowned on the 22d of the same month. In the twentieth year of his reign, (1397) he married Isabella, who was then crowned alone, as appears from the *Close Roll in the Tower*. An order is there preserved, to the Sheriffs of London, to make proclamation, summoning "all

persons who, by reason of their tenures or otherwise, were bound to perform any services on the days of the coronation of Queens of England, to do the same at the coronation of the King's consort as usual."—In the *Cott. MS. in Brit. Mus. Tib. E.* 8. 37, is an account of the duties of officers at the coronation, temp. Ric. 2. The duty of Keeper of the Wardrobe is there set forth: "Idem custos eodem modo in Coronatione Reginæ, si sit coronata cum Rege, sive sola sit coronata," &c.

Henry IV. was crowned October 13, 1399. His first wife, Mary of Bohun, having died in 1394, he afterwards married Joanna, who was crowned in 1403. His son and successor Henry V. was crowned in 1413; but having in 1421, married Katherine of France, he came over to England for the purpose, among other things, of attending her coronation. She was crowned alone, as appears from the *Close Roll in the Tower*, where a summons remains to all persons to attend and perform services "at the Coronation of Katherine Queen of England, the King's Consort."

Henry VI. having succeeded his father when an infant of a few months old, was first crowned in his ninth year, 1429, and afterwards at Paris in 1431. In 1445, he married Margaret, who was crowned alone on the 30th of May, with the usual pomp.

The materials of Scottish history do not enable us to trace the coronation of the Queen-Consort with such precision; but there can be no doubt that it was as punctually and solemnly performed as that of the sovereign. This may safely be inferred from the peculiar provisions of the law of Scotland, touching the Queen's privileges. There she has by statute the right to an oath of allegiance from all the prelates and barons. Such is the provision of the Act 1428, c. 109, made in the eighth Parliament of James I., and four years after his return from captivity in England. It is entitled,

"*Aith to be made to the Queen be the Clergie and the Baronnes,*" and is as follows, being, like all the old statutes of Scotland, extremely concise: "Quo die Dominus Rex, ex deliberatione et consensu totius concilii statuit, quod omnes et singuli successores prælatorum regni quorumcunque, necnon omnes et singuli hæredes futuri comitum, baronum, omniumque libere tenentium Domini Regis, teneantur facere consimile juramentum Dominæ nostræ Reginæ. Nec ullus prælatus de cætero admittatur ad suam temporalitatem aut hæres cujusvis tenentis Domini Regis ad suas tenendrias, nisi prius præstet Reginæ illud juramentum." Now that an argument may be drawn to the rights of the King and his Consort in Great Britain, since the union of the Crowns, from their rights in Scotland before the Union, is manifest, both upon principle, and also upon the authority of the Houses of Parliament, which, in 1788, ordered Scottish precedents to be examined as well as English, touching the Regency.

Edward IV. having been crowned in 1461, when he was unmarried, afterwards married Elizabeth Woodville, in 1465, and her coronation took place immediately. In the Cotton Collection there remains an *Ordo Coronationis Regis Ed. IV. et Reginæ Angliæ*, with a memorandum, "Pro Unctione Reginæ, quando sola coronanda sit." *Tib. E.* 8.

Richard III. and his Queen Anne were crowned together in 1483. The proceedings of a usurper are not, in a question like the present, to be overlooked; for he is likely to be peculiarly scrupulous in the observance of all the ancient usages connected with the title to the throne.

Henry VII. took the crown by three titles—descent, conquest, and marriage; and although, as Lord Coke remarks, his best title in law was his marriage, yet it is certain that he preferred the title by descent, which

upon all occasions he was anxious to put forward, placing it (to use the language of Lord Bacon) as his main shield, and the other two as its supporters only. The country, as far as its opinion can be collected from the declaration of Parliament, viewed it in the same light; and in the intendment of law this is sufficient, whatever may have been the sentiments of the York party. The crown was by statute entailed upon him and his issue, being limited to the heirs of his body generally, without any reference to the Princess Elizabeth, to whom he was not then married. But before this act recognised him as king *de jure*, and immediately after the battle of Bosworth had given him possession of the crown, he solemnised his coronation, 30th October 1485, postponing his marriage with the daughter of Edward IV. till the 18th of January following. "These nuptials," says Lord Bacon, "were celebrated with greater triumph and demonstrations, especially on the people's part, than either his entry or coronation, which the king rather noted than liked, and all his lifetime shewed himself no very indulgent husband towards her." It may well be supposed that this incident increased his jealousy of his Consort's title, and his reluctance to do any thing which might seem to recognise it. He accordingly delayed the coronation till he "alienated the affections of the people, and till danger taught him what to do." The feelings expressed by Margaret of York, Duchess of Burgundy, upon the postponement, evince the sense entertained by the persons best informed with respect to the rights of Queens in this particular. She "could not see without trouble that Henry refused to let Elizabeth be crowned—an honour no Queen of England had been debarred of since the Conquest; and the birth of a son had not induced him to do her that justice." Notwithstanding his dislike of the measure, he was at length obliged to give

way; but it came, says Lord Bacon, "like an old christening, that had staid long for godfathers, and this made it subject to every man's note, as an act against the King's stomach." The Queen was crowned alone, 25th November 1487; and the proclamation for appointing persons to execute the office of Lord High Steward at the ceremony, is in the very same terms with the similar proclamation two years before at the coronation of Henry himself. Both are preserved in *Rymer*, xii. 277, 327; the one tested October 19, 1485—the other November 10, 1487.

Thus, of the eighteen married Kings, from the Conquest to the reign of Henry VII. inclusive, not one was crowned, that had not the coronation of a Consort celebrated either with his own, or upon his nuptials. Fifteen coronations were celebrated for the sole purpose of crowning Queens-Consort, including Edward I.'s second wife; the same number of coronations was celebrated on account of Kings alone, including William Rufus; and six are known to have been celebrated of Queens-Consort alone. The usage of four centuries is sufficient to establish the rule in respect of a state ceremony; it evinces the practice of England in this respect; it is sufficient to settle more essential points; it fixes the custom of the monarchy, and authorises the conclusion that any subsequent deviations are to be deemed capable of explanation in the absence of positive evidence, and to be only reckoned exceptions, even if it were shewn or granted that they cannot be explained.

Henry VIII. was crowned with his first wife, Katherine of Aragon, 1509; and upon his marriage with Anne Boleyn, she was crowned alone, on Whitsunday, 1533. There may be no evidence of his other wives being crowned, any more than of the contrary position. If it be admitted that they were not, of which no proof

exists, there seems little difficulty in explaining the reasons of the omission. He married Jane Seymour the day after Anne Boleyn's execution. He had then quarrelled with the Emperor and the Pope; he was odious to the church, which he was busy in despoiling; the destruction of Anne rendered him equally unpopular with the reformed party, whom she had protected; and Jane was not likely to court a ceremony which must have exposed her to especial hatred, as the accomplice and the occasion of an enormity so recent and so great. She soon proved with child, and died the day after Edward VI. was born. Anne of Cleves lent herself to the proceedings for dissolving her marriage, and Henry was engaged in these from the day of its celebration. During the rest of his reign, the unsettled state of ecclesiastical affairs renders it probable that neither Katherine Howard nor Katherine Parr was ever crowned; but this likelihood is all the evidence we have of the omission, beside the silence of historians, and want of documents.

The cases of Edward VI. who died unmarried, Queen Mary, and Queen Elizabeth, have of course no bearing upon the question. James I. was crowned with his queen in England, almost immediately after his accession, they having both been previously crowned in Scotland.

Charles I. was crowned 2d February 1625, near a year after his accession. It is asserted that he was crowned alone; and it may be so, although certainly there are grounds for a contrary supposition. The proclamation for the solemnity, in the usual terms, was issued 17th January 1625; and it announces the coronation of Queen Henrietta Maria, as well as of the King. On the 24th of the same month, a second proclamation was issued, appointing the Court of Claims, and referring, by way of recital, to the coronation of both King

and Queen. On the 30th, it is true, a third proclamation respecting knights of the Bath to be created, only mentions "The solemnity of our coronation;" but it is possible that those knights being for attendance on the person of the King, the mention only of the Queen's coronation might be dropt, without the intention of crowning her having been abandoned. *Rymer*, xviii. 275, 278. However, it is believed that she never was crowned, and this may be admitted, though there is no proof of it. But this omission is not necessarily to be explained by those who contend for the right. It might be sufficient for them to say, that the current of cases being in favour of the proposition of fact, that Queens have always been crowned, the omission in Henrietta Maria's case must have arisen from peculiar circumstances. Nevertheless, those circumstances shall now be shewn, *ex gratia*, the burthen of the proof lying on the other side.

The marriage of Charles with a Catholic, and her arrival with a Catholic suite, had given great umbrage to the country. In opening his first parliament, that prince had alluded to the rumours propagated by malicious persons, who gave out that he was not so true a friend to the established religion as he ought to be; and he assured them, that having been brought up at the feet of Gamaliel, (meaning James I.) he should steadily persevere in supporting the Protestant church. The parliament was not satisfied, and the two houses held a grand conference, which ended in a joint address to the King, praying him to enforce the laws against Popish recusants. In the fifth article of the address, they thank the King for the clause inserted in the treaty of marriage,—that no natural born subject, being a Catholic, should be employed in the Queen's household,—and pray that it may be enforced. After the King had given satisfactory answers to the different heads of

the address, *seriatim*, and issued a proclamation against recusants in consequence, his favourite minister, the Duke of Buckingham, declared in parliament, that his Majesty took well their having reminded him of religion, though he should have done just the same had they never asked him; "well remembering," added the duke, "that his father, when he recommended to him the person of his wife, had not recommended her religion."—*Rushworth*, i. 172, 183. *Parl. Hist.* ii. 26. These things demonstrate that great jealousy existed in parliament and the country, on the subject of the Queen's religion; nor was the ferment allayed by the King's compliance; for the Commons, a few days after, refused supplies, on account of grievances, particularly the growth of Popery, and the supposed leaning of the court towards it, and the parliament was suddenly dissolved on the 12th of August, the joint address having been voted at the beginning of that month. Now the coronation took place in the interval between this dissolution and the calling of a new parliament.

It may be from hence inferred, that one motive for changing the resolution to crown the Queen, was the reflection that such a measure would revive the alarms respecting her religion, and excite odium against her person. The nature of the solemnity, when she came to view it more nearly, must have decided her in refusing to partake of it. She must have regarded with abhorrence, a ceremony into which the rites of the Protestant religion entered so largely—a ceremony performed at a Protestant altar, by a Protestant prelate, in the language of a Protestant ritual. Had she and the King professed the same Catholic faith, this difficulty, though great, might have been got over; but, as he was a sincere Protestant, the words taken by him in one sense, must have been used towards her, and by her, in an opposite sense, to make them innocent. The

sacrament is a part of the ceremony; but supposing that to have been left out, she never could have received the ring given to her with the words, "Accipe annulum fidei, signaculum sanctæ trinitatis." "*Fides*," in the King's case, must have meant the reformed faith; applied to the Queen, the same word in the same archbishop's mouth must either have meant the opposite doctrine, or it must have bound her to the heresy she daily abjured. The use of the ring was equally inconsistent with her creed, "Quo possis omnes hæreticas pravitates devitare;"—that is, eschew the heretical sins of her own religion,—"et barbaras gentes virtute dei præemere, et ad agnitionem veritatis advocare;" in other words, convert infidels to the errors she abhorred as damnable. A gift bestowed in such a place by such a power, accompanied by such words, subservient to such purposes, must have been to her only an object of aversion.

No reasonable doubt, then, can be entertained that the Queen was deterred from submitting to be crowned, partly by her apprehension of the odium which her participation in a Protestant religious service might excite against herself and her Catholic followers, and partly by her own religious scruples. The tradition among antiquaries* is, that she declined, unless she might be crowned by a priest of her own persuasion,

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* The correctness of the statement that Queen Henrietta Maria was not crowned, and the reasons of the omission, are proved by a passage in "*Finetti Philoxenos. Some Choice Observations of Sir John Finett, Kt., and Master of the Ceremonies to the two last Kings. Printed* 1656." The French ambassador was at the house of Sir Ab. Williams where, with her Majesty, he had a view of the procession, p. 170. He declined being a spectator at the coronation, "where the Queen, his master's daughter, *excused her presence*," 169. "The *Queen's reason* (as it was voyced) for not being crowned together with the king, was because she could not (they said), by her religion, be present at our church ceremonies, where she must have had divine service celebrated by our bishops, and not by those of her own religion, *as was demanded for her crowning*," 171. This book was presented by his late Majesty (Geo. III.) to the British Museum.

which was of course refused. That the difficulty must have occurred in the manner here asserted, seems still further proved by the article in the treaty with France, stipulating that at the marriage, "aucune ceremonie ecclesiastique interviendra," (*Rymer*, xvii. *sub. fin.*) and by the dates of the proclamations already cited, which shew that the change of resolution was too sudden to have proceeded from actual remonstrance on the part of the country, and consequently that the objection to being crowned moved from herself, dictated by her apprehensions or her scruples, or both. If she had been deterred by the country from enjoying her right, the non-usor would not have operated against her Protestant successors; if by the King, from his submission to the wish of the country, the same remark applies; but there is every reason to conclude, that the three parties, King, Queen, and Country, concurred in the omission, which consequently cannot operate against the right, whether we consider it as in the Queen-Consort, or in the realm, or in both. And the view which can be taken least favourable to the argument, viz. that Henrietta Maria's case stands unexplained, and is an exception to the practice, proves nothing more than that a Catholic queen and Protestant king cannot well be crowned together.

Charles II. was crowned before his marriage with Katherine of Portugal. The religious animosities of the last reign were now greatly increased—a motion in parliament had been made to prevent Charles's marriage with a Catholic—and the existence of scruples in Katherine's mind is on record; for one of the charges against Lord Clarendon, in Lord Bristol's Articles of Impeachment, was his having persuaded the Queen to refuse being married by a Protestant priest or bishop. If, then, it be admitted, that she never was crowned, (of which there is no proof,) the omission falls within

the scope of the argument respecting the case of Henrietta Maria, with this difference, that Katherine's case, howsoever explained, or if left unexplained, does not affect the rule of a Queen being always crowned with her consort, if married at the time of his coronation.

James II. and his Queen, Mary of Modena, were crowned together, both being Catholics. The solemnity of the sacrament is said to have been omitted on this occasion, but how the difficulties were got over which arose from the other parts of the service, seems hard to comprehend. The utmost use that can be made of their submitting to the ceremony, is unavailing against the argument respecting Henrietta Maria and Katherine—for that which scares one person's conscience may not affect another's; and besides, the King and Queen being of the same religion, found it much more easy to take the words of the ritual in their own sense.

Since the Revolution, no exception whatever can be found to the rule; for George the First's wife never was in England—never was known as Queen—nor even mentioned officially at all till after her decease, and then named by the title she took after the divorce, which is understood to have dissolved her marriage before the accession of the house of Brunswick. It may be remarked, that the last proclamation issued respecting a coronation, viz., the one directing the late Queen to be crowned, was issued some days after the one for the King's coronation, the marriage having been solemnized in the interval; and it summoned all persons bound by their tenures or otherwise, to attend and do service at the Queen's coronation.

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The ascertainment of the facts has done more in this case than lay a foundation for the argument. Every

thing here depends upon usage; and the uniformity of that usage, both in England and other countries where the solemnity of a coronation is known, demonstrates the true nature of the solemnity, indicates its component parts, and prohibits the rejection of one portion rather than of another. It is on all hands agreed, that, in England, no Queen-Consort has ever been denied a coronation. It is admitted that the present will be the first instance of a demand and refusal. But it has further been proved, at the very least, that, as often as a married King has been crowned, his Consort has received the same honour, unless, in one instance, where she was abroad; and in another, where religion prevented, and she declined it. That the Queen-Consort, married at the King's coronation, being of his own religion, within the realm, and willing to be crowned, has always been crowned, is a proposition without any exception whatever; and it applies strictly to the case of her present Majesty; it embraces the matter now in question. Where usage and practice are every thing, this might be sufficient; but a larger proposition has been proved; and it is a legitimate inference from the statement of facts, that the Queen-Consort has at all times been crowned as regularly and solemnly as the king himself; for, the cases are extremely few, where positive proof does not exist of the Queen's coronation; and it is very possible that there may be no omission at all. Again, if it be granted that, in those cases, where the proof exists not, there was no coronation, they must, in all fair reasoning, be taken as exceptions to a very general rule; and we are bound to presume that they would be so explained as to bring them within the rule, if we knew the whole facts. This would be a sound inference, supposing we had no means whatever of accounting for those exceptions. It is the manner in which men always reason in questions of historical evidence,

and in the practical affairs of life; but it is also the manner in which courts of law reason. If an immemorial enjoyment of a way or pasture, by persons having a certain estate, is proved, it will be inferred, that the claimant, and those whose estate he hath, at all times used the way or pasture, although he may not be able to shew that each owner, within the time of living memory, did use it. Suppose that this proof is wholly wanting with respect to one owner, who had the estate for a few months; if all others used the way or pasture, as far back as living memory reaches, the presumption will be, that the one owner also used it. But even if proof were given that he did not, and his non-usor were unexplained; it would avail nothing against the generality of the proposition of fact, that all used it who chose; for the presumption would be, that there existed circumstances which, if known, would explain the non-usor; and the burthen of rebutting this presumption, would be thrown upon the party denying the immemorial enjoyment. So here, if the person holding the station of Queen-Consort is proved to have been crowned, in all but two or three instances, respecting which there is no proof either way, a presumption arises, that in those instances too, she was crowned; and if it be shown or admitted, that in those cases no coronation took place, he who denies the uniformity of the custom, must shew either that the ceremony was refused to the Queen, or that it was omitted without any cause; the necessary conclusion from the great majority of instances being, that the ceremony always was performed, unless the Queen refused, or some accident prevented it.

This is the principle upon which other coronation claims have been, in all times, dealt with. It cannot be proved, that in every coronation, the Barons of the Cinque Ports performed the canopy service, because

there are some of those ceremonies of which no records are preserved. But their claim has always been allowed, and it would have been allowed, though proof should have been given, that in one or two instances they did not serve, as unquestionably is the case. For the omission would justly have been deemed accidental, that is, imputable to causes now unknown, but consistent with the uniformity of the usage. So the court has upon the present occasion admitted the claim of a lord of a manor to do service as larderer to the Kings and Queens of England at their coronation, although in right of that manor, it is proved that no such service had been done since the reign of Edward I. The King's right to be crowned might stand in the same predicament; for, although it happens that his coronation has only been omitted in one instance, that of Edward V. which is easily accounted for, the omission might well have been more frequent. The intervals between accessions and coronations have been long enough to leave many risks of a demise of the crown before the ceremony could be performed; and though the delay had not been accounted for, it is presumed that the unexplained omission would not have availed against the King's right. Nor can it be admitted that the oaths taken by the King, and the allegiance tendered to him, make any difference in the argument. These rest themselves upon usage antecedent to the statute; and if they formed no part of the solemnity, the King's coronation would still be an important ceremony.

Such would be the principle, if all the exceptions to the rule had remained wholly unexplained; but it is contended, that they have all been sufficiently accounted for. There is the greatest difference between an omission and an interruption—a mere non-usor, and a denial. No instance whatever is alleged of the Queen having been prevented from enjoying the honour in

question. On the contrary, two attempts were made to disturb her, and both failed. King Henry, as he must be deemed, and was always called after his coronation in the lifetime of his father, Henry II., and afterwards Henry VII., delayed the coronation of their consorts, and endeavoured to withhold the ceremony altogether; but both were obliged to yield to the usage, and those Consorts were crowned. As one successful interruption would countervail many instances of uncontested usor, so one failure in the attempt to interrupt is worth many instances of peaceable enjoyment.

The use and practice, such as it thus appears to have been in all times, establishes the right. At least it throws upon those who deny it, the burthen of proving the Queen's part of the ceremony to be one that may be dispensed with, both as regards herself and the ceremony, or the realm which is interested in it. But a more near view of the Queen's part will still further prove the existence of the right.

If it were asked by what tests a substantive right can most surely be known, the answer would be—by these three; its separate and independent enjoyment—its connexion with other rights arising out of it, and dependent on it alone—and its subserviency to some important purpose, of the claimant or of the realm. The right in question has all these incidents.

The Queen-Consort has been crowned in fourteen or fifteen instances when the King's coronation had before been celebrated, and when the performance of the ceremony could bear no reference to him. In six of those cases, at the least, (Edward III. Richard II. and Henry III. V. VI. and VII.) the Queen-Consort was crowned alone, sometimes in her husband's absence, sometimes in presence of him, as a mere assistant at the solemnity. Furthermore, a ceremonial is distinctly laid down for her coronation, apart from the King's,

upon the supposition that it may at any time be performed separately; and the *Liber Regalis*, the authentic document prescribing the order of the coronation, and followed in performing it for ages, consists of three parts, the first laying down the rules for crowning the King alone, or with his Consort; the second for crowning the Consort, when crowned with the King; and the third, "*si Regina* SOLA *sit coronanda.*" This solemnity, then, is considered as wholly independent of the King's coronation; it is not an accessory to that ceremony; it arises, indeed, out of the Queen's relation to the King by marriage; but the relation once established, the ceremony follows as a necessary consequence, with her other privileges.

Again; many rights in other persons have grown out of this ceremony, and still further testify its immemorial existence and substantive nature. The Barons claim to bear the canopy over the Queen as well as the King, and to have the cloth; this claim has always been allowed, e. g. in the 20th of Henry III. when the Queen alone was crowned. At the same coronation, as appears by the *Red Book in the Exchequer*, Gilbert de Sandford claimed, by ancient right of his predecessors, to be chamberlain to the Queen at her coronation, and to keep her chamber and the door thereof, and have the entire bed, and all things belonging to it. This claim was allowed, and in the *Testa de Neville* (or *Book of Knights' Fees)*, fo. 243, it is set forth, that Gilbert de Sandford, holds certain manors there specified "by the Serjeanty, that he be the chamberlain of the lady the Queen." By the same Book it appears, that at a subsequent period, Robert de Vere, Earl of Oxford, held the manor by the like serjeanty. In the *Close Roll in the Tower*, there remain a proclamation to the Barons of the Cinque Ports, to perform the canopy service, at the coronation of Philippa, Queen of Edward III.—a Summons 8 Hen.

V., to all persons to attend and perform service at the coronation of Queen Katherine—and an order to the Sheriffs of London, 20 Ric. II., to summon, in like manner, all persons owing service at the coronation of the Queen-Consort. At those three coronations the Queen alone was crowned. By the *Coronation Roll in the Tower*, a claim appears to have been allowed, in the reign of Henry IV., of Reginald de Grey de Ruthyn, in right of the manor of Ashele, to perform the office of the napery at the coronation of Queens as well as Kings of England. It is moreover certain that all persons performing any service at the Queen's coronation, attain from thence the degree of Esquire. *(Doddridge's Law of Nobility*, 145.*)*

It is impossible to contend that a ceremony so ancient, so universal, so well known and accurately described, so regularly observed without any variation, far beyond the time of legal memory, and as far back as history reaches,—a ceremony interwoven with other usages, and the foundation of various rights—is a mere creature of accident,—and dependant upon the individual pleasure, or personal will of the sovereign.

If no purpose could be discovered to which it can now be subservient, or if even its original could not be traced, there would not, on that account, arise a presumption, that the sovereign may ordain or dispense with it. He is himself the creature of the law; and in contemplation of law he has no caprice. Mere personal matters of such a nature, as plainly belong to his individual, not his corporate character, he may regulate at will; but the leaning of the law and constitution of this country is to narrow the class of those personal functions as far as possible, and to regard the natural as merging in the politic capacity. It is absurd and wholly inconsistent with every thing in the history and in the ceremony of the Queen's coronation, to suppose

that it may be ordered or omitted, like a court dinner or ball. They who maintain that it is optional, must contend that it is quite indifferent, and that it never had any meaning or importance; but they must further be prepared to shew, why that alone, of all the coronation customs which it so nearly resembles, both in its nature and history, is both senseless and useless; for no one pretends that the King's coronation may be performed or omitted at pleasure, and yet it rests upon the same foundation of usage with the Queen's. They who rely upon the usage have no occasion to shew either the origin or the purpose of the solemnity; but then they must take all the parts of it together. They who hold one part to be necessary and the other optional, must distinguish the two; but where any thing is found so long established, the law will intend that it must have had a reasonable origin.

The King's coronation most probably was connected with his election. He was either chosen or acknowledged upon that occasion. But it does not follow that the reception of his Queen, together with him, by his subjects, was an unimportant part of the solemnity, even if no farther explanation could be given of its use —for her high rank and near connexion with him might render it fitting. However, the use of crowning the Consort seems abundantly obvious from her connexion with the royal progeny. The coronation was the public recognition of the King as sovereign, and of the Queen as his lawful wife, and the mother of the heirs to the crown; it was the ceremony by which the sovereign's own title, and that of his issue was authenticated. Crowning the King, acknowledged him as the rightful monarch. Crowning the Queen, perpetuated the testimony of the marriage, on the validity of which depended the purity of the succession to the throne; and, on the undisputed acknowledgment of which de-

pended the safety and peacefulness of that succession. The especial favourite of the law of England, as regards the Queen-Consort, is, and always has been, the legitimacy of the royal progeny. The main objects are to prevent a spurious issue from being imposed on the realm; and to remove all doubts upon this point, which, if contested, would endanger the peace of the country. The provisions of the Statute of Treasons are only declaratory of the Common Law, (3 *Inst.* 8.) and the Mirror (c. 1. s. 4.) written before the Conquest, records the jealous care which, from all time, has been taken of the purity and certainty of the succession to the crown; for it classes the violation of the royal bed among treasons, in nearly the same terms with the 25 Ed. III. When we find this to be the law touching the Queen-consort in those remote ages which also established the practice of invariably requiring her to be crowned, we can be at no loss to conclude that her coronation originated in the same principle, and was intended to prevent any doubts arising with respect to the validity of her marriage.

It is a further confirmation of the same doctrine, and gives additional weight to the whole argument for the right claimed, that distinct traces remain in the older coronations of an actual acknowledgment, and even acceptance of the Queen-Consort, very similar to the recognition of the King. In the *Charter Roll in the Tower*, 5. John, is a grant of dower to Queen Isabella; "Quæ in Anglia de communi assensu et concordi voluntate Archiepiscoporum, Episcoporum, Comitum, Baronum, Cleri, et Populi totius Angliæ, in Reginam est Coronata." So that the origin of the two ceremonies was exactly the same. The one party was acknowledged or received as King by common consent of the three estates; the other was by the same consent acknowledged or received as his wife or Queen, for the words in Saxon are synonymous,

Queen signifying only the wife, by way of eminence, that is, the King's wife.

It follows from these positions, that though the reason of the thing may long since have ceased as to the King's coronation, yet it remains in some sort to this day with respect to the Queen's. For happily there has long ceased to be any semblance of election in this monarchy, and the only vestige that remains of it is the coronation ceremony; but doubts may exist as to the validity of a King's marriage, and as celebrating the coronation of the Consort tends to make the testimony of it public and perpetual, so omitting, and still more the withholding that solemnity, has a tendency to raise suspicions against the marriage, and to cast imputations upon the legitimacy of the issue, contrary to the genius and policy of the law.

It is another corollary from the same principles, and one which greatly supports the present claim, that the omitting, and still more the withholding the solemnity with respect to the Queen, when a married King is crowned, tends much more to defeat the objects of the law, than the neglecting or refusing to crown a Queen married after her husband's accession. For the marriage of a reigning sovereign must needs be public and well known to all the world: whereas an heir to the crown, being a prince or a common person, may, when in a private station, have secretly contracted a marriage, of the existence or validity of which great doubts shall afterwards be entertained. And this argument is most consistent with the invariable course of the custom respecting the coronation of married Kings.

A further consequence from the premises is, that the Queen-Consort's coronation is not so much a right in herself as in the realm; or rather, it is a right given to her for the benefit of the realm, in like manner as the King's rights are conferred upon him for the common

weal; and hence is derived an answer to the objection, that the Queen has always enjoyed it by favour of her Consort, who directs her to be crowned as a matter of grace. The law and constitution of this country are utterly repugnant to any such doctrine as grace or favour from the crown regulating the enjoyment of public rights. The people of these realms hold their privileges and immunities by the same title of law whereby the King holds his crown, with this difference, that the crown itself is only holden for the better maintaining those privileges and immunities; and they do imagine a vain thing who contend, that a firmly established usage, well known in all ages, and subservient to important public purposes, can depend upon any thing but the law and practice of the monarchy.

The same answer may be made to the objection, that the Queen's coronation has always been solemnized by force of a proclamation from the crown, which is indeed only another form of the last objection, and is not much aided by referring to the words in the proclamation, "We have resolved to celebrate," &c. The right is not claimed adversely as against the King; it is his right as well as the Queen's that she should be crowned; or rather, it is the right of the realm by law, and the King, as executor of the law, is to see that the ceremony be performed. But this objection would disprove the existence of all rights, public and private; for without the nominal intervention of the crown, none can be enforced if resisted, and many of the most important cannot be enjoyed by the realm, or by individuals. All writs run in the King's name. Not to mention judicial writs, the heir to whom a peerage is limited cannot enjoy his highest privilege without a writ of summons to parliament. And though this is issued by the King, and though, except by impeachment of his ministers, there be no remedy if it be withholden, yet there can be no

doubt that the subject has a right to it.—*(Skin.* 432, 441, *Verney's case.)* So, of a petition of right, the subject's only remedy for the crown's intrusion upon his lands or goods. So, of the right which the realm has by statute to a new parliament once in seven years at the least, the enactment being, that the "King, his heirs and successors, shall within, &c. direct legal writs to be issued under the great seal for calling and holding a new parliament." (16th Car. I. cap. 1.; 16th Car. II. cap. 1.; 6th W. & M. cap. 2.; 1st Geo. I. cap. 38. st. 2.) Now, in all these cases the right is not the less admitted to be in the subject, because it can only be enforced or enjoyed through the interposition of the crown. A right to that interposition is exactly part of the right in question; if it be withholden, a wrong is done; and the possibility of this is so far from disproving the right, that the law will not suppose such a possibility. Then, as to the language of the proclamation, it proves nothing. Other writs run in similar terms; and the writ of error states, "nos volentes errorem corrigi et justitiam fieri, prout decet." (F. N. B. 24.)

It is further said, that the Queen cannot prescribe for being crowned, because she is neither a corporation nor does she prescribe in a *que estate.* Now, first, it is indifferent whether she takes it by prescription or custom—by force of ancient grant or ancient statute; next, she is to many intents a corporation; and lastly, she may prescribe as well as a chancellor, who only holds an office at will, and yet has been permitted to prescribe for privileges "in him, and those whose estate he hath" —*(Com. Dig. Præscription,* A.); or a serjeant, attorney, or under-sheriff, who can all in like manner prescribe —(2 *Roll.* 264. 11 *Ed. IV.* 2. *and* 21 *Hen. VII.* 16, b.) Surely if such functionaries may say, that all those who have held the same place enjoyed certain privileges, the Queen-Consort may say the like. Yet here is no ques-

tion of pleading, to which, rather than to the more general assertion of the right, those doubts are applicable.

This is the argument submitted to the Lords of the Privy Council on behalf of the Queen-Consort. The question is raised for the first time; it must be determined by legal principles, without reference to the occurrences which have lately agitated the country. Future ages, in pronouncing upon it, and in judging the judges of the present day, will view the subject as calmly as we do the remains of the Saxon Heptarchy, or the monuments of the Norman line; and will only recur to the events which occupy us, in case the sentence now given should be otherwise unintelligible. If that sentence shall be one worthy of the great names which sanction it, there will be no such explanation wanted.

# CASE

OF

# THE REV. RICHARD BLACOW.

# INTRODUCTION.

## LICENTIOUSNESS OF THE PRESS.—TRIUMPHAL PROCESSION OF THE QUEEN.

QUEEN CAROLINE was at all times extremely averse to Prosecutions for Libel. She had early in her life, that is to say, soon after the course of her persecutions commenced, well considered the subject, and become aware of the extremely unsatisfactory state of our law regarding the offences of the press. The result of all her reflexion and observation upon the subject was, that the submitting to slander was the lesser evil, and that legal proceedings only made the injury more severe, by giving the invectives a more extensive circulation. She felt that, by prosecuting a libel, she lent herself to the designs of the slanderer, and suffered so much the more, only that others might be deterred from publishing their calumnies against other individuals, probably against her enemies themselves. Add to this, that

she was of a fearless nature, and never doubted that the efforts of malice would fail to affect her general reputation.

This aversion to all penal proceedings was certainly not diminished by the trial before the Lords, if a word usually consecrated to the administration of justice may be prostituted to describe the case of 1820, in which it would be hard to say whether greater violence was done to the forms of justice, or a more entire disregard shewn to its substance. She had been kept for many months in a state of annoyance and vexation, of irritation and suspense, during those shameful proceedings, which, regulated by no principles known in courts of law, were calculated to affright the person most conscious of innocence, and to make every observer feel that the event depended as little upon the real merits of the case as any division in either House of Parliament upon a party question turns upon the soundness of the arguments advanced in the debate, or the personal qualities of the different speakers. She was compelled to bear with her advisers, while they were discussing the propriety of prosecuting the perjured witnesses, although she felt rather relieved than disappointed when it was found that technical difficulties stood in the way of any such course being taken. But she had a very decided aversion to going before the legal tribunals, and being involved in a lengthened litigation, well knowing how unsatisfactory the result might prove, and how little likely a conviction was to silence the calumniators, who were hired and set on by a Court wholly unscrupulous in using the strong influence which it possessed over the press, and the ample resources of

corruption placed at its disposal. After the tempestuous scene through which she had just passed, tranquillity was the object of all her wishes; and she felt confident that her conduct would be rightly appreciated by the country at large, how active soever her unprincipled adversaries might be in the dissemination of their slanders. Her wishes accordingly prevailed, and the consequence was, that the press was polluted with a degree of malignity and impurity before wholly unknown. Newspapers that used formerly to maintain some character for liberality towards political adversaries, became the daily and weekly vehicles of personal abuse against all who took the Queen's part. Journals which had never suffered their pages to be defiled by calumnies against individuals, nor ever had invaded the privacy of domestic life for the unworthy purpose of inflicting pain upon the families of political enemies, devoted their columns to the reception of scandal against men, and even women, who happened to be connected with the Queen's supporters. As if the publications already established were too few for the slanderer's purpose, or too scrupulous in lending themselves to his views, new papers were established with the professed object of maintaining a constant war against all who espoused Her Majesty's cause. Nay, it was enough that any persons, of any age or of either sex, held any intercourse whatever with that illustrious Princess, to make their whole life and conversation the subject of unsparing severity and unmeasured and unmanly vituperation. A single error, far short of fault, once detected, was made the nucleus round which were gathered all the falsehoods which a slan-

derous and malignant fury could invent; and the defects of the law being well known to those who had studied them in order to evade its sanctions, little fear was entertained of the propagation of those falsehoods being visited with punishment, as long as any the least imperfection existed in any one's conduct, which could not be denied upon oath. In one respect, the whole thing was so much overdone, that it failed to produce its full effect. Slander like every thing else, may be made so abundant as to lose its value. Fierce and indiscriminate calumnies daily and weekly circulated in journals, and in pamphlets, and in private society, began to lose their relish, and to pall upon the appetite which, by loading it to excess, they ceased to provoke. After a little while people began to care very much less for these attacks; they seemed to be considered as matters of course; and it was found that the Press had lost the greater part of its power as regarded invectives or imputations. Nay, so many things were published, notoriously without the least foundation, that the truths which from time to time became mixed with the falsehoods, shared the same fate, and all were disbelieved alike; nor did persons of indifferent life and doubtful fame fail to feel the comforts of their new position, kept in countenance as they now were by the most respected individuals, whose hitherto unassailed reputation were as much the objects of the prevailing malignant epidemic, as their own more frail reputations. Thus the press not only ceased to have its appropriate effect of encouraging virtue and controuling vice, but it operated as some little annoyance to the good, while it cherished and protected the bad:

all men perceiving that the purest life was no kind of security against its assaults, while it confounded the licentious with the blameless, causing its showers to fall alike on the just and the unjust.

To the Queen's resolution against prosecuting her slanderers, her advisers adhered throughout with one remarkable exception. A reverend clergyman of the established church thought fit, in the discharge of his sacred duties, to preach a sermon abounding in the the most gross scurrility. The main subject of his attack was her Majesty's going in procession to St. Paul's Cathedral, where she attended divine service in the month of November, to offer up thanks for her providential deliverance from her enemies; and was surrounded by countless thousands of the people, her steady and unflinching supporters. The wonderful spectacle which the great capital of the empire exhibited on that remarkable occasion, has never perhaps been adequately described. But it perhaps may be better understood if we add, that those who witnessed the extraordinary pomp of her present Majesty's visit to the Guildhall Banquet last November, and who also recollect the far more simple and unbought grandeur of the former occasion, treat any comparison between the two as altogether ridiculous. When Queen Caroline went to celebrate her triumph, and to thank God for "giving her the victory over all her enemies," the eye was met by no troops—no body-guards—no vain profusion of wealth—no costly equipages—no gorgeous attire—no heaving up of gold—no pride of heraldry—no pomp of power, except indeed the might that slumbered in the arms of myriads ready to die in her defence.

But in place of all this, there was that which the late solemnity wanted—a real occasion. It was the difference between make-believe and reality—between play and work—between representation and business—between the drama and the deed. When the young Queen moved through her subjects, she saw thousands of countenances lit up with hope, and beaming with good-will, and hundreds of thousands of faces animated with mere curiosity. Queen Caroline had been oftentimes seen by all who then beheld her; she had been long known to them; her whole life had but recently been the subject of relentless scrutiny; hope from her of any kind there was none. All that she was ever likely to do, she had already done; but she had been despitefully used and persecuted; she had faced her enemies and defied their threats, dared them to the combat, and routed them with disgrace. In her person justice had triumphed; the people had stood by her, and had shared in her immortal victory. The solemnity of November 1820, was the celebration of that great event, and although they who partook of it had no sordid interests to pursue, no selfish feeling of any kind to gratify; although they were doing an act that instead of winning any smile from royalty, drew down the frowns of power, and were steering counter to the stream of court favour, adown which Englishmen, of all people in the world, are the most delighted to glide; yet the occasion was one of such real feeling, so much the commemoration of a real and a great event, and the display of practical and determined feelings pointed to a precisely defined and important object, that its excitement baffles all description, and cannot be easily comprehended by

those who only witnessed the comparatively tame and unmeaning pageant of November 1837.

In the proportion of its interest to the people at large, was the indignation which this celebrated festival excited at Court; and the time-servers speedily finding that they could not in any thing so well recommend themselves to favour in high quarters as by attacking this solemnity in any way, lost no time in opening their batteries of slander. According to the plan which had been adopted by Her Majesty's advisers, all the ordinary herd of libellers were suffered to exhaust their malice unresented and unprovoked. But a sermon preached to a large congregation, and one of exemplary piety, by a Minister of the Established Church, and one laying claims to extraordinary sanctity of life and fervour of religious feeling, could not be thus passed over. Her Majesty's Attorney-general therefore moved the Court of King's Bench for a Criminal Information against Mr. Blacow the offender; and obtained a Rule to shew cause upon a simple affidavit setting forth the fact of the slander and the publication by preaching, but not denying the matters alleged. It was found upon examining the precedents and the other authorities, that the Queen-Consort had a right to have her Rule without the usual affidavit of denial, and that it would be irregular to make this affidavit. Her Majesty was quite prepared, and indeed she wished, to deny upon oath the whole matter laid to her charge, but her inclination was overruled, on the result of the search for precedents. No cause was shewn by the defendant, and the trial coming on at Lancaster, Mr. Brougham who had obtained the Rule while he held the office of Attorney-general to the

Queen, led for the prosecution, in opening which, the following speech was delivered. The reverend defendant was his own counsel, and made a long abusive speech, full of every kind of irrelevant matter, and continually interrupted and threatened with punishment by Mr. Justice Holroyd, the learned judge who tried the cause. The jury without hesitation found him guilty.

During the interval between the Information being obtained and tried, an event happened which gave a peculiarly mournful interest to the proceeding—the death of this great Princess, who fell a sacrifice to the unwearied and unrelenting persecution of her enemies. A circumstance well fitted to disarm any malignity merely human, seemed only to inspire fresh bitterness and new fury into the breast of the ferocious priest. The indignation and disgust of the country was roused to its highest pitch by the unbridled violence of his defence; and when men regarded the groundlessness of those charges of which it was made up, against all he had occasion to mention, they were forcibly reminded of a remarkable passage in Dr. King's late History of the Rebellion of 1745, a favourite Jacobite production, —"Blacones apud Anglos sunt infames delatores, gigantum filii; quos naturâ malevolos spes præmii induxit in summum scelus: qui quum castos et integerrimos viros accusare soleant, omnia confingunt, et non modò perjuria sua vendunt, verum etiam alios impellunt ad pejerandum nomen sumunt a Blacow quodam sacerdote, qui ob nefarias suas delationes donatus est canonicatu Vindsoriensi a regni præfecto."

This man was brought up for judgment in the following Michaelmas term, and only sentenced by the

Court of King's Bench to three months' imprisonment, —Messrs. Hunt having suffered a confinement of two years, and paid a fine of L.1000, for a far less slanderous attack on the Regent in 1802; and Mr. Drakard having, as we have seen, been confined eighteen months, for publishing some remarks on military punishments, which a Middlesex jury had just before pronounced to be no libel at all. Three years after Blacow's trial, Mr. D. W. Harvey and his printer were tried in the Court of King's Bench for a libel upon George IV. in a country paper published by them. It represented that sovereign as guilty of almost every crime which a prince can commit, and farther charged him with having rejoiced exceedingly at the death of his wife, his brother, and especially his only child, the Princess Charlotte. It was, perhaps, the worst case of libel ever brought before the court. When the defendants were brought up for judgment, they appeared without any counsel; but just as the sentence was about being pronounced, Mr. Brougham, who with Mr. Denman had defended them at the trial, beckoned to Mr. Harvey, who crossed the court apparently to receive some suggestion for his speech in mitigation of punishment. He then addressed the court, and on his concluding, was again beckoned to by his counsel, as if he had still omitted something. The court complained of this interference, as Mr. Brougham was not then retained for either of the defendants. Whereupon he stated that the reason why he had made Mr. Harvey cross the court was to suggest, what he now took leave to do as *amicus curiæ*, that Mr. Blacow for his scandalous sermon against the late Queen, had only

been sentenced to three months' imprisonment, and that of course more could not be given in the present case. Their lordships expressed much displeasure at this interference, seeming not to set a high value upon the '*amicitia curiæ*,' which had been testified; but after a short consultation, they sentenced Mr. Harvey and his co-defendant to the same period of confinement with Mr. Blacow.

# SPEECH

IN THE

## COURT OF COMMON PLEAS AT LANCASTER,

ON OPENING THE PROSECUTION

AGAINST

## RICHARD BLACOW, CLERK.

SEPTEMBER 1821.

# SPEECH.

MAY IT PLEASE YOUR LORDSHIP,—GENTLEMEN OF THE JURY,—It is my painful duty to bring before you the particulars of this case; it is yours to try it; and my part shall be performed in a very short time indeed; for I have little, if any thing, more to do, than merely to read what I will not characterize by words of my own, but I will leave to you, and may leave to every man whose judgment is not perverted and whose heart is not corrupt, to affix the proper description to the writing, and his fitting character to the author. I will read to you what the defendant composed and printed; and I need do no more. You have heard from my learned friend,—and if you still have any doubt, it will soon be removed,—to whom the following passage applies. Of the late Queen it is that this passage is written, and published.

"The term 'cowardly' which they have now laid to my charge, I think you will do me the justice to say, does not belong to me; that feeling was never an inmate of my bosom; neither when the Jacobins raged around us with all their fury, nor in the present days of radical uproar and delusion. The latter, indeed, it must be allowed, have one feature about them even more hideous and disgusting than the Jacobins themselves. They fell down and worshipped the goddess of reason, a most respectable and decent sort of

being."—And you know, gentlemen, that she was a common prostitute, taken from the stews of Paris. "A most respectable and decent sort of being compared with that which the radicals have set up as the idol of their worship. They have elevated the goddess of lust on the pedestal of shame; an object of all others the most congenial to their taste, the most deserving of their homage, the most worthy of their adoration. After exhibiting her claims to their favour in two distinct quarters of the globe; after compassing sea and land with her guilty paramour, to gratify to the full her impure desires, and even polluting the Holy Sepulchre itself with her presence,—to which she was carried in mock majesty astride upon an ass, —she returned to this hallowed soil so hardened in sin,—so bronzed with infamy,—so callous to every feeling of decency or shame, as to go on Sunday last"—here, gentlemen, the reverend preacher alluded, not to the public procession to St. Pauls,—where her late Majesty returned thanks for her delivery,—or to other processions which might, partly at least, be considered as political, but to her humble, unaffected, pious devotion in the Church of Hammersmith.—"to go on Sunday last clothed in the mantle of adultery, to kneel down at the altar of that God who is 'of purer eyes than to behold iniquity,' when she ought rather to have stood barefooted in the aisle, covered with a shirt as white as 'unsunned snow,' doing penance for her sins. Till this had been done, I would never have defiled my hands by placing the sacred symbols in hers; and this she would have been compelled to do in those good old days when Church discipline was in pristine vigour and activity."

Gentlemen, the author of this scandalous, this infamous libel, is a minister of the Gospel. The libel is a sermon—the act of publication was preaching it—the

place was his church—the day was the Sabbath—the audience was his flock. Far be it from me to treat lightly that office of which he wears the outward vestments, and which he by his conduct profanes. A pious, humble, inoffensive, charitable minister of the gospel of peace, is truly entitled to the tribute of affection and respect which is ever cheerfully bestowed. But I know no title to our love or our veneration which is possessed by a meddling, intriguing, unquiet, turbulent priest, even when he chooses to separate his sacred office from his profane acts; far less when he mixes up both together—when he refrains not from polluting the sanctuary itself with calumny—when he not only invades the sacred circle of domestic life with the weapons of malicious scandal, but enters the hallowed threshold of the temple with the torch of slander in his hand, and casts it flaming on the altar; poisons with rank calumnies the air which he especially is bound to preserve holy and pure—making the worship of God the means of injuring his neighbour; and defiling by his foul slanders the ears, and by his false doctrines perverting the minds, and by his wicked example tainting the lives of the flock committed by Christ to his care!

Of the defendant's motives I say nothing. I care not what they were; for innocent they could not be. I care not whether he was paying court to some patron, or looking up with a general aspect of sycophancy to the bounty of power, or whether it was mere mischief and wickedness, or whether the outrage proceeds from sordid and malignant feelings combined, and was the base offspring of an union not unnatural however illegitimate, between interest and spite. But be his motives of a darker or lighter shade, innocent they could not have been: and unless the passage I have read pro-

ceeded from innocency, it would be a libel on you to doubt that you will find it a libel.

Of the illustrious and ill-fated individual who was the object of this unprovoked attack, I forbear to speak. She is now removed from such low strife, and there is an end, I cannot say of her chequered life, for her existence was one continued scene of suffering—of disquiet—of torment from injustice, oppression, and animosity—by all who either held or looked up to emolument or aggrandisement—all who either possessed or courted them—but the grave has closed over her unrelenting persecutions. Unrelenting I may well call them, for they have not spared her ashes. The evil passions which beset her steps in life, have not ceased to pursue her memory, with a resentment more relentless, more implacable than death. But it is yours to vindicate the broken laws of your country. If your verdict shall have no effect on the defendant,—if he still go on unrepenting and unabashed,—it will at least teach others, or it will warn them and deter them from violating the decency of private life, betraying sacred public duties, and insulting the majesty of the Law.

# SPEECHES

## IN TRIALS FOR LIBELS

ON

## THE DURHAM CLERGY.

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# INTRODUCTION.

## DEATH OF QUEEN CAROLINE.—CONDUCT OF THE DURHAM CLERGY.

When the late Queen Caroline, yielding to the altogether unexampled course of persecution in every form under which she had suffered, was stricken with a mortal sickness, the immediate consequence of mental distress, parties were variously affected by the intelligence that her life was in danger. The people universally and with but little distinction of party or of sect, were thrown into a state of the most painful anxiety, and waited in suspense the arrival of the tidings which were to confirm or to dissipate the prevailing gloom. After a passing interval of better prospects, all hope was soon banished by information that she was given over; and the news of her decease, which happened on the 7th of August 1821, followed immediately after. In all the places where the event was made known, and where no undue influence or superior authority was exerted to suppress the public feelings,

the utmost concern was manifested, not unaccompanied with indignation at the author of those wrongs which had led to this sorrowful event. Among the more ordinary, and therefore, if displayed, the more unimportant manifestations of concern, was that of tolling the bells in cathedrals and churches, the constant mark of respect paid to all the royal family, even the most insignificant and the least popular,—a ceremony so much of course that nothing could give it any importance except the rudeness or the servility which might obstruct its being performed. Accordingly, the tribute of respect had almost universally been paid, and had excited no comment any where. It was reserved for the heads of the Durham Cathedral to form an exception, the only exception of any importance, to the general course of conduct pursued upon this mournful occasion. They would not suffer the bells of that venerable edifice to be tolled in the wonted manner.

It might have been thought that even had it been decent for churchmen to take part in such a controversy, and during the Queen's life to side with the oppressors against the injured party, the event which removed the latter from all worldly concerns, would have allayed also the animosity of her clerical antagonists; and that, though they had refused her the benefit of their prayers while living, they would not make themselves the solitary exception among Chapters and other Collegiate bodies, to the regular course of paying an accustomed mark of respect to the consort of the sovereign, now only known to them as one whose death had made his Majesty a widower, and enabled him to gratify his desires without violating his

own conjugal duties. These reverend personages, however, thought otherwise; they forbade their bells to toll; and the consequence was some remarks in the Durham Chronicle, a provincial paper long distinguished for its steady though temperate support of liberal opinions, both on civil and on ecclesiastical subjects. These remarks were as follows, and they were published on the 10th of August, while the event was fresh in the recollection of all, and the feeling had not subsided which it was calculated to excite.

"So far as we have been able to judge from the accounts in the public papers, a mark of respect to her late Majesty has been almost universally paid throughout the kingdom, when the painful tidings of her decease were received by tolling the bells of the Cathedrals and Churches. But there is one exception to this very creditable fact which demands especial notice. In this episcopal city, containing six churches independently of the cathedral, not a single bell announced the departure of the magnanimous spirit of the most injured of Queens,—the most persecuted of women. Thus the brutal enmity of those who embittered her mortal existence pursues her in her shroud.

"We know not whether any actual orders were issued to prevent this customary sign of mourning; but the omission plainly indicates the kind of spirit which predominates among our clergy. Yet these men profess to be followers of Jesus Christ, to walk in his footsteps, to teach his precepts, to inculcate his spirit, to promote harmony, charity, and Christian love! Out upon such hypocrisy! It is such conduct which renders the very name of our established clergy odious till it stinks in the nostrils; that makes our churches look like deserted sepulchres, rather than temples of the living God; that raises up conventicles in every corner, and increases the brood of wild fanatics and enthusiasts; that causes our beneficed dignitaries to be regarded as usurpers of their possessions; that deprives them of all pastoral influence and

respect; that in short has left them no support or prop in the attachment or veneration of the people. Sensible of the decline of their spiritual and moral influence, they cling to temporal power, and lose in their officiousness in political matters, even the semblance of the character of ministers of religion. It is impossible that such a system can last. It is at war with the spirit of the age, as well as with justice and reason, and the beetles who crawl about amidst its holes and crevices, act as if they were striving to provoke and accelerate the blow which, sooner or later, will inevitably crush the whole fabric and level it with the dust."

In the Court of King's Bench, Mr. Scarlett, then Attorney-General for the County Palatine, obtained on the 14th November a Rule to shew cause why a Criminal Information should not be filed against John Ambrose Williams, as the reputed publisher of this paragraph, who indeed never denied that he was also its author. The first of the following speeches is the argument of Mr. Brougham, who with the late learned, able, and most excellent John Bonham Carter, (Member for Portsmouth, and son-in-law of William Smith,) was of counsel for the Defendant. The Rule was, not without hesitation on the part of the Court, made absolute, there being indeed, no similar instance of a Rule so granted, where the party applying did not deny upon oath the matters charged against him in the alleged libel. It was not very easy to support by precedents a prosecution in this form, instituted for a libel against a body so little defined as "the Clergy of Durham;" still less such a body as the Information afterwards filed words them, "the Clergy residing in and near the city of Durham;" there being no means of ascertaining what distance this included, and consequently who the

parties libelled really were. But it was a novelty still greater and more alarming to receive as prosecutors by Criminal Information a party who, under the shelter of this vagueness, made no affidavit of the falsehood of the charge, and thus escaped the performance of that condition under which all other parties are laid by the Rule of the court when they apply for its extraordinary interposition, instead of proceeding by Indictment.

The Rule being thus made absolute, the Information was filed, and went down to trial at the next summer assizes for the County Palatine, where it excited extraordinary interest from the parties, the subject, and the spirit of political animosity prevailing between the College and a large portion of the community. The cause was tried before Mr. Baron Wood, and the speech in Mr. Williams's defence forms the second and the principal of those connected with this extraordinary proceeding. The jury were enclosed for above five hours, and returned a verdict which restricted the libel, and again raised one of the questions on the record, which had been argued in shewing cause against the Rule. The verdict was, "Guilty of publishing a libel against the clergy residing in and near the city of Durham and the suburbs thereof."

The defendant, accordingly, next Michaelmas term, moved in arrest of judgment, and also for a new trial, when the third of these speeches was delivered—viz., the argument on that motion. The result was, that Mr. Brougham obtained a Rule to shew cause, but the matter stood over, the prosecutors never shewing any cause, and consequently no judgment was ever pronounced, either upon the Rule or upon the defendant,—who thus

was let go free as if he had been acquitted altogether by the jury. It was the general opinion of Westminster Hall, that no judgment could have been given upon the verdict which had been found. It was all but the general opinion there, that the granting this Rule for a libel so conceived, and above all, without the usual denial on the prosecutor's oath, was a wide and wholly unprecedented departure from the established practice in this most delicate and important matter, and the precedent now made has certainly never since been followed.

The speech delivered on the trial at Durham naturally excited much attention at the time, from the nature of the subject; and perhaps this was increased by the notion which prevailed, that individuals of the cathedral were alluded to in it. But for this there could be no foundation. It was uniformly denied by Mr. Brougham; whose professional duty, while it required him freely to discuss the merits of the Chapitral establishment and the conduct of those forming its present members as a body, certainly did not call for any singling out of individuals; much less for any deviation from the act with which alone they were charged, namely, disrespect, for party purposes, towards the memory of the late Queen. The Chapter consisted of many most worthy, pious, learned, and able individuals; and though, while under the influence of party feelings, which clergymen ought never to indulge, they had been led astray on the particular occasion, their general conduct was not in question, and was not made the subject of forensic discussion, either at the trial or in the court above.

# ARGUMENT

## IN THE COURT OF KING'S BENCH,

IN THE CASE OF

## JOHN AMBROSE WILLIAMS.

JANUARY 25, 1822.

# ARGUMENT.

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Mr. Brougham, on the 25th January, being called upon to shew cause why the Rule *Nisi* should not be made absolute, addressed the Court to the following effect :—

This was a Rule obtained by my friend, Mr. Scarlett, last term, calling on the defendant to shew cause why a criminal information should not be filed against him for a libel on the Clergy of Durham, the matter being alleged to be libellous. My lords, before I proceed to call your attention to the alleged libel, and to the circumstances in which it was published, I shall in the first instance submit (as I think it will save a great deal of time) a preliminary, and, as it appears to me, a fatal objection to the proceedings altogether, arising out of the manner in which this Rule has been obtained. Your lordships will observe that this is not one of those cases of which a good deal has been heard lately, namely, of a prosecutor unknown to the law, but it is, in fact, the case of a prosecutor altogether unknown to the particular party—it is an anonymous prosecution—it is the most novel of all

these recent novelties. I will defy any man to tell who the person is, or who the persons—who the corporation, corporate or sole—upon whose application this Rule was obtained. It is unnecessary for me to remind your lordships, that if an offence has been committed—if a libel has been published—or if any thing has been done which requires that the doors of justice should be open for punishment or redress—the discharging this Rule does not close those doors; for, as was observed by my Lord Kenyon, in a case somewhat similar to the present, "the refusing this application does not close the door of justice; it only bars the access to justice by this particular avenue." So if a libel has been published, it is still Actionable or Indictable in the ordinary and regular manner. I submit that it is a mere novelty for a party to ask of the Court a Criminal Information in this extraordinary fashion, without making himself known to your lordships, and appearing here by affidavit, if need be, for your lordships will easily remember, and indeed it has recently come a good deal under discussion, that where there are libellous publications of any specific matters, whether alone, or connected with others of a more vague description —where, in short, either the whole or any part of the charge is of so precise a nature that an answer may be given—it is necessary, before the application can be complied with, that those matters should be denied on the oath of the applicant. But even if there be no specific matter in the publication now in question before the Court; supposing it to be a case of a general and strictly political nature—of an attack on the Church and State—supposing it to be the case of a different, nay of an opposite description to that of the paper now accused—for argument's sake I will suppose it to be any one of those publications which have been lately under the consideration of your lordships,

and against which first a verdict, and then judgment have passed, so that no man can now be suffered to deny their libellous nature—still I say that my learned friend, who obtained this Rule, must, before he can make it absolute, shew a single instance in which your lordships have allowed such a libel to be prosecuted in this extraordinary manner, by Information. It may be prosecuted *ex-officio* by the law officers of the Crown, or it may be indicted by an individual; but it cannot be prosecuted in this unheard-of manner, by a person unknown to the Court, and who, for anything the Court can know, may have no existence. If it may, then may any person come forward as a prosecutor; any gentleman at the bar, who chances to be unoccupied, may rise in his place and move; he will only have to say, "I call on your lordships to put in motion the process of this Court; a libel has been published, and I call on you to grant me this application." But I think the Court would exercise its discretion before it interposed to grant a Criminal Information in such a case. I say it is a mere novelty for the party who makes this application to be unknown to the Court, and I will defy my learned friend to shew a single instance of the kind; at any rate, there is no one to be found since the statute of William and Mary was passed for regulating proceedings of this kind. It is unnecessary for me to waste the time of the Court in shewing the consequence of your lordships granting this Information. If a person may come forward and apply, putting himself in the office of public prosecutor (an office unknown in our law), what would happen? Why, any gentleman at the bar, without retainer, authority, or instructions—any young amateur in prosecutions—might rise up and say, "I am to move for a Rule to shew cause why a Criminal Information should not be filed

against A. B." and he would obtain it without more ado; nay, the process of the Court would immediately after issue, provided he only complied with the statutory condition of entering into a recognizance for L.20, which, indeed, any one might do for him. I say, if your lordships acquiesce in the present application; if the Information is granted to my friend Mr. Scarlett; I can see no reason why it should not be granted to any other gentleman at the bar. My lords, I am exceedingly unwilling to enter into the particular merits of this case; but I think I can satisfy your lordships that, independent of the preliminary objection which I have taken, this Court cannot interpose to relieve the parties in the particular circumstances of this case; supposing those parties to be the Durham clergy; but that it will leave them to their proper and ordinary course of proceeding by Indictment. I think I could satisfy your lordships that there is no ground for this Court's interposing, by shortly adverting to the circumstances of the case; but it would be an unpleasant discussion, as it respects the character of individuals, members of an ecclesiastical body of great note, which is justly venerated in this country. I say, my lords, I am extremely unwilling to be dragged into the details connected with this case, unless I am told that it is necessary by your lordships disposing of this preliminary objection.

The Judges consulted for several minutes, and while they were deliberating,

Mr. Brougham said, perhaps your lordships will allow me to refer you to a case; it is the only one that I can refer you to; for, as I said before, this is the first time that an attempt of the sort has been made; I allude to the King *v.* Phillips, in 4th Burr., 2009. That was a case in which the then Attorney-general,

in his place in Court, moved for a Rule to shew cause why a Criminal Information should not be filed, and the Court said, "for whom do you apply?"

The LORD CHIEF JUSTICE.—Was that a case of public or private libel? That was a libel upon a private individual, was it not, Mr. Brougham?

MR. BROUGHAM.—It was not a libel, my lord; it was for an offence of a public nature.

MR. CARTER.—It was for a misdemeanor, committed by a magistrate in the execution of his office.

The LORD CHIEF JUSTICE.—Ah, it was an offence against some particular individual.

MR. BROUGHAM.—Yes, my lord, and there the Court said, "for whom do you make this application?" when the Attorney-general immediately said, "I make it on behalf of the Crown." There the Court seemed to have reckoned that it was incumbent on them to ascertain who the party applying was.

The LORD CHIEF JUSTICE.—I think that was very properly said to the Attorney-general. I recollect something of the same kind happening here, when I said, "for whom do you move?" It was replied, "I move individually;" there the counsel was appearing in the character of any other gentleman at the bar; but if he says I move as Attorney-general, or generally for the Crown, that is the distinction.

The Judges again consulted for a short time, after which

The LORD CHIEF JUSTICE said,—It will not be convenient to take the parts separately.

MR. BROUGHAM.—Not to take them separately, did your lordship say?

The LORD CHIEF JUSTICE.—Yes.

MR. BROUGHAM. Then I have further to request your lordship's attention to the very strict manner in which the Court has in all instances required an affi-

davit denying the truth of any matters charged, where those matters were specific enough to be made the subject of denial by affidavit, or where any portion of the matter was so specific as to be capable of being denied by affidavit.

MR. JUSTICE BAYLEY.—If the libel charges a crime on an individual, it must be denied; but not if the character of the libel is the same, whether it is true or false.

MR. BROUGHAM.—I apprehend that when a party is charged with a libel, and that charge consists of any specific fact, that fact ought at all events to be denied.

The LORD CHIEF JUSTICE.—What is the fact that you say ought to be denied?

MR. BROUGHAM.—There are several facts, my lord.

The LORD CHIEF JUSTICE.—Well, what are they? state what they are.

MR. BROUGHAM.—The first is that which is alleged respecting the Cathedral church and other churches of the city of Durham, namely, that they did not shew the usual mark of respect to the royal family; and this resolves itself into a charge against the clergy of Durham, that they failed in paying the respect due to the royal family, by forbidding the bells to be tolled on the demise of one of its most considerable branches. That is the charge, and it rests upon a fact of such a specific nature, that it might have been made the subject of a distinct denial, and, we contend, ought to have been denied: if, indeed, after all, this party, namely, the clergy of Durham, is the party concerned in the present application.

MR. JUSTICE BAYLEY.—In granting a criminal information there must be some fact. The question here is, did they pay that mark of respect; and if that fact is not negatived on the part of the person making this application, that will warrant the Court in con-

cluding that the fact is true. We may assume that the bell was not tolled: that is a matter for the discretion of the Court.

Mr. Brougham.—I do not mean to deny that it is entirely matter for the discretion of the Court; because this whole proceeding is an appeal to its discretionary powers; but it is equally clear that the discretion will now be exercised, as it always has been, soundly, and according to the known rules and principles long since established by the Court, and by which its discretion is distinctly limited. One of those fixed rules is, that the party applying for a Criminal Information shall deny the truth of the charge of which he complains. I have already reminded your lordships of this principle, and that such an application cannot be granted unless the party brings forward his denial in the first instance. According to the principles of all the decided cases, it is not enough to say that, be the matter true or false, the publication is libellous, and should be prosecuted. Prosecuted it may be, whether true or false, but not in this manner; the merits of the party applying for this extraordinary interference of the Court are the sole grounds of its interposition. For example, there is the case of the King *v.* Bate, on the Duke of Richmond's application, where the matter was much discussed; and the general rule was laid down, that whoever be the prosecutor he must deny the truth of all specific charges.

The Lord Chief Justice.—What is the subject matter of fact here; your assertion is, that the clergy of Durham did not pay that mark of respect which they ought to have paid in memory of the deceased Queen. Now go on and read the rest, and let us see whether any affidavit can be made with respect to the rest.

Mr. Brougham.—In the King *v.* Bate it is laid

down that when the fact or any part of the fact charged is of a specific nature, it must be denied.

MR. JUSTICE BAYLEY.—Then we must look to what was the subject of that application; if a libel is published which imputes to a man a crime, and he will not state by his affadavit that he is innocent of that crime; in that case the Court will say, "you are not a person to whom we will give relief;" if a man is charged with a crime and he neglects to negative that fact by affidavit, that entitles the Court to consider that the fact which is so charged and not negatived, is a true fact. Now in this case, here is an imputation of a crime, and if the Court is to take the fact to be true, that is a ground why the Court should not interfere. But there may be a case, (I do not say that there is one) but there may be a case where the imputation is not a charge of a crime, and there the fact not being denied may be taken to be true; still the libel may justify this extraordinary mode of proceeding.

MR. BROUGHAM.—That is the point at issue, my lord. Next I have to submit that all, or almost all this paragraph is a charge against a particular body, and that the body ought, in applying for this Rule, to have negatived it by affidavit. Your lordship will recollect that it is laid down in all the cases, that the highest as well as the lowest parties, with the single exception of the Queen-Consort, in applying to this Court for an Information, fall equally within the rule, namely, that their merits are to enter into the consideration of the Court, and that they are bound to remove the imputation from themselves when they seek this peculiar remedy.

MR. JUSTICE HOLROYD.—It is not so in every case; where a party seeks for the interposition of a court, as in the case of a challenge for instance, on account of the public safety and public peace, the court does not

refuse the information upon the motion of the party, though the applicant be not blameless.

Mr. Brougham.—Undoubtedly, my lord; but, nevertheless, I am sure that your lordship will bear me out in the assertion, that there never is an application to this Court for a Criminal Information on account of a quarrel, in which the whole circumstances attending that quarrel are not gone into, and the merits of the party making the application scrupulously investigated. The party resisting the application is allowed to go at large into all the circumstances of the offence committed, or alleged to be committed, by the party applying; these are always most fully brought before the Court in order to show on what ground the applicant stands. In order that the ends of justice may be satisfied, a minute investigation of the conduct of both parties is entered into by the Court; and though the conduct of the person insulted is no defence in law for the person insulting, yet if it has been blameworthy, it is held an answer to the demand made for leave to proceed by Information. And now I am compelled, however reluctant, to go into the merits of this case: and I am forced to seek about in order to ascertain the party with whom I am contending. It is quite obvious that it must be some person connected with the Cathedral of Durham.

The Lord Chief Justice.—Certainly it is not the conduct of the Cathedral alone; it cannot be applied to them alone.

Mr. Brougham.—When I make use of that expression, I mean the clergy of the city—the Cathedral and the city together—for undoubtedly it refers to both, though most especially to the Cathedral. It is distinctly sworn in the affidavit of the defendant, that these observations referred exclusively to the Durham clergy; and that they did not apply to the clergy of the Church

generally; and I still have again to complain, even in this part of the argument, of not knowing precisely whom I am contending with; because, for any thing I know, it may be the very description of persons mentioned in the preamble of the statute, "those malicious and contentious persons who, more of late than in former times, have been engaged in prosecutions of this kind." But whoever the persons may be who move in this matter, it is plain, at any rate, that the merits of the parties of and concerning whom this charge is made, are directly in issue before your lordships. Now, in tracing the origin of this dissension, I have first of all to state, that the altercation in which those clergymen and others have been for some time past engaged, are such as to justify your lordships in refusing to lend yourselves to their designs; and leaving these clerical parties to their remedy by action, or by indictment before a grand jury, that you will be justified in refusing to grant the request now made. It is sworn by the defendant, that those clergymen have of late, and for some years past, taken a very active part, not only in the political dissensions of the country, but most especially in those locally relating to the county and city of Durham. They were all on one side, most active agents, who spared no pains to render themselves serviceable to one party; and not only to thwart the designs, but to blacken the character of their antagonists.

The LORD CHIEF JUSTICE.—This is upon the affidavit I suppose, Mr. Brougham?

MR. BROUGHAM.—It is in substance upon the affidavit, my lord; the facts are set forth there with much particularity, and I shall come to them immediately. I should be sorry now not to enter into the details, since I am forced to abandon my preliminary objection. I may add that they not only made themselves

the most active political agents, but that they scrupled at no means of annoyance, and hesitated at no excess of falsehood and malignity in order to accomplish their purposes; their secular, party, factious, selfish purposes. I should be sorry to annoy the ears of your lordships with a specimen of their vile abuse.

MR. SCARLETT.—I do not find that in the affidavit.

MR. BROUGHAM.—I mean the persons whose conduct I have alluded to.

The LORD CHIEF JUSTICE.—Who are they?

MR. BROUGHAM.—Certain members of the clergy of the church of Durham.

The LORD CHIEF JUSTICE then read the libel, after which he said, "I do not see how it can apply to the clergy of Durham only."

MR. BROUGHAM.—I am to submit, my lord, that it does apply to the church and clergy of Durham only. We have distinctly sworn that it applies to them, and if we had no other means of shewing it, I submit that that is the fair construction of the commentaries on their conduct; that it applies exclusively to them. It is made in the course of remarks upon a particular thing done by the Durham clergy, and stated in the alleged libel to be done by them alone. Undoubtedly there are one or two severe expressions; the word "brutal" for instance, is used, but the defendant may well say to that "non *meus* hic sermo;" he copied the word from an attack made upon many persons, and among others on himself, by one of those very clergymen of Durham. In this attack the same word "*brutal*" is most freely used. The passage in the paragraph which says, "it is such conduct that renders the very name of our Established clergy odious till it stinks in the nostrils," is a strong, a harsh, and (if you will) a coarse mode of speech. But, again, it is not the speech of the defendant. For it is to be found in the writings

of a venerable author; who says of a certain body, that they are "as the *Augeæ Stabulum*, and do stink in the "nose of God and his people." These expressions are applied by him not to such as the defendant or his party, but to higher quarters.—What if they are used to describe a clerical body? What if that body be this very Cathedral of Durham? What if the writer be one of the body himself? What if it be their very Bishop, who thus strongly and somewhat coarsely describes them?

MR. JUSTICE BAYLEY.—What year was that in?

MR. BROUGHAM.—He was a protestant bishop,—Bishop Barnes. It was in the reign of Elizabeth. I only cite his lordship's words to show that those expressions, harsh as they may seem to be, which the defendant has used, are not without the warrantry of high authority, upon a parallel occasion. Now I have to remind your lordships, not only that the contents of the publication are true, but that it has been provoked by the conduct of the clergy themselves, who have thought proper to publish pamphlets filled with the most foul and false aspersions against this very defendant. One of them has written a tract, in which he distinctly terms Mr. Williams, if not by name, at least by his designation as Editor of the Durham Chronicle, "*a hireling and fulsome panegyrist;*" an odious character, doubtless, and worthy of all contempt; but not more hateful nor more despicable than the man who combines with it in his own person, the part of an hireling calumniator; earning a portion of his hire by fulsome flattery to his rich and powerful employer, and working out the residue in foul slanders of those who cannot or who will not buy him. It is against such persons; it is of and concerning such vocations, the scandal and disgrace of the Church, not the establishment itself, that these remarks are made; it is in such conduct, and such characters, that these

strictures find their justification, generally; but most of all is this defendant entitled thus to express himself, who has been made the object of these mercenary attacks. Another of the gentlemen, with his name, (a Mr. Philpotts) publishes a pamphlet, in which he describes Mr. Williams as "a miserable mercenary who eats the bread of prostitution, and panders to the low appetites of those who cannot or who dare not cater for their own malignity." I think that the coarseness and virulence with which these observations have been made by those reverend gentlemen, will at once be allowed fully to justify the remarks of the defendant in return; and when your lordships see that abuse has been thus bandied about on the one side and on the other, in the violence of conflicting secular passions, I trust that you will not lend yourselves to the parties whose indecent animosity has drawn forth the comments of the defendant, by permitting them to come into this Court and seek the protection reserved for those whose hands are pure, and whose demeanour will bear the closest inspection.

Nor is it only individuals of the body who have mixed themselves with such intemperance in the squabbles of party, and forgotten the sacred character which should belong to their station. There was a meeting of the whole clergy some time previous to the date of the publication in question. It was a meeting—an assembly officially convened, and holden at the house of the Archdeacon of the Diocese. Your lordships will find that the body of the clergy were there convened, upon whose conduct as political men these remarks have been made; and at that meeting they thought fit to pass a censure in the most unmeasured terms, (amounting certainly to a breach of privilege) upon a part at least of the Parliament—to make an attack upon what passed there, charg-

ing persons and parties with "having been guilty in the highest places of conduct which would disgrace the lowest." If any doubt remains as to whom these observations were levelled at, the author of the address, and of the publication to which I have already referred, in commenting on a mistake committed by some one, removes that doubt, for he clearly shews that the address referred to what passed in the House of Lords. Now I will, before concluding, beg leave to give your lordships a sample of the decency and regard for truth which guide those calumniators who are now complaining of what they call false and scandalous libels. In the pamphlet to which I first adverted, you will find statements which are not only positively sworn to be as false as they are malignant, but some of which are so notoriously false, (though not more false than foul, allow me to say) that I will venture to say no man, let him be of what political description, or of what rank or class he may, can fail to receive them with extreme disgust. Thus it is positively asserted by one of those reverend partizans, that after the proceedings in 1806, with respect to the late Queen, she never durst go to Court, but that she remained absent from Court from 1806 down to 1814, and of course down to the date of the proceedings against her—that in consequence of what took place in 1806, she remained under a CLOUD; whereas, it is as notorious as the sun at noon-day, that the very party who since persecuted her, insisted on her being received at Court, the instant that they got into office in 1807; that it was at their instigation she was received at Court, and that she constantly attended it afterwards while the late King* retained his health; that so far from those ministers being able to maintain that the proceedings in 1806 had left Her

* George III.

Majesty under a CLOUD, their objection to these proceedings was one of the grounds upon which they made her the stepping-stone to place and power; and that, not satisfied with the resolution of 1806 acquiting her of guilt, they made a point of revising all that had been done, and entered, as far as the strongest words could convey it, their solemn protest against all the proceedings which had taken place against her, leaving on record their most ample assertion of her innocence. I give you this as a specimen, (for it is only by sample that I shall deal with so foul a cargo); it is a specimen of the conduct of those clergymen in their secular capacity of political agents, in which they have so greatly abused the name—the more sacred name that ought to belong to them. In another passage of the same pamphlet, Her late Majesty is spoken of in terms closely resembling those for which another reverend slanderer is now suffering the sentence of the law. If there be a squabble between conflicting parties in a county, as to its local politics; and if in the heats of the controversy, the character of an individual or body is assailed, let him bring his action in the ordinary manner, or, if he pleases, prefer a Bill of Indictment. In the present case I submit to your lordships, that, independent of the primary objection which I have taken, namely, that this is the first time an application of the kind has been made without the appearance of the party in his own name—independent of the nature of the publication to which it refers—I submit that your lordships will not feel justified in granting the application which has been made without the appearance of the party in his own name; and that you will leave those who made it to their ordinary remedy by Indictment, seeing that their own conduct has called forth the strictures of which they complain, and that they were the first to slander their neighbour.

# SPEECH

FOR THE

# DEFENDANT, AT THE DURHAM ASSIZES,

AUGUST 9, 1822.

# SPEECH.

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MAY IT PLEASE YOUR LORDSHIP,—GENTLEMEN OF THE JURY,—My learned friend, the Attorney-general for the Bishop of Durham, having at considerable length offered to you various conjectures as to the line of defence which he supposed I should pursue upon this occasion; having nearly exhausted every topic which I was *not* very likely to urge, and elaborately traced, with much fancy, all the ground on which I could hardly be expected to tread—perhaps it may be as well that *I* should now, in my turn, take the liberty of stating to you what really *is* the defendant's case, and that you should know from myself what I *do* intend to lay before you. As my learned friend has indulged in so many remarks upon what I shall not say, I may take leave to offer a single observation on what he has said; and I think I may appeal to any one of you who ever served upon a jury, or witnessed a trial, and ask if you ever, before this day, saw a public prosecutor who stated his case with so much art and ingenuity—wrought up his argument with such pains—wandered into so large a field of declamation—or altogether per-

formed his task in so elaborate and eloquent a fashion as the Attorney-general has done upon the present occasion. I do not blame this course. I venture not even to criticise the discretion he has exercised in the management of his cause; and I am far indeed from complaining of it. But I call upon you to declare that inference which I think you must already have drawn in your own minds, and come to that conclusion at which I certainly have arrived—that he felt what a labouring case he had—that he was aware how very different his situation to-day is from any he ever before knew in a prosecution for libel—and that the extraordinary pressure of the difficulties he had to struggle with, drove him to so unusual a course. He has called the defendant "*that unhappy man.*" Unhappy he will be indeed, but not the only unhappy man in this country, if the doctrines laid down by my learned friend are sanctioned by your verdict; for those doctrines, I fearlessly tell you, must, if established, inevitably destroy the whole liberties of us all. Not that he has ventured to deny the right of discussion generally upon all subjects, even upon the present, or to screen from free inquiry the foundations of the Established Church, and the conduct of its ministers as a body, (which I shall satisfy you are not even commented on in the publication before you). Far from my learned friend is it to impugn those rights in the abstract; nor indeed have I ever yet heard a prosecutor for libel—an Attorney-general, (and I have seen a good many in my time) whether of our Lord the King or our Lord of Durham, who, while in the act of crushing every thing like unfettered discussion, did not preface his address to the jury with "God forbid that the fullest inquiry should not be allowed;" but then the admission had invariably a condition following close behind, which entirely retracted the concession—"provided always the discussion be carried on harmlessly,

temperately, calmly"—that is to say, in such a manner as to leave the subject untouched, and the reader unmoved; to satisfy the public prosecutor, and to please the persons attacked.

My learned friend has asked if the defendant knows that the Church is established by law? He knows it, and so do I. The Church is established by law, as the civil government—as all the institutions of the country are established by law—as all the offices under the Crown are established by law, and all who fill them are by the law protected. It is not more established, nor more protected, than those institutions, officers, and office-bearers, each of which is recognised and favoured by the law as much as the Church; but I never yet have heard, and I trust I never shall; least of all do I expect in the lesson which your verdict this day will read, to hear, that those officers and office-bearers, and all those institutions, sacred and secular, and the conduct of all, whether laymen or priests, who administer them, are not the fair subjects of open, untrammelled, manly, zealous, and even vehement discussion, as long as this country pretends to liberty, and prides herself on the possession of a Free Press.

In the publication before you, the defendant has not attempted to dispute the high character of the Church; on that establishment or its members, generally, he has not endeavoured to fix any stigma. Those topics, then, are foreign to the present inquiry, and I have no interest in discussing them; yet after what has fallen from my learned friend, it is fitting that I should claim for this defendant, and for all others, the right to question, freely to question, not only the conduct of the ministers of the Established Church, but even the foundations of the Church itself. It is indeed unnecessary for my present purpose, because I shall demonstrate that the paper before you does not touch upon those

points; but unnecessary though it be, as my learned friend has defied me, I will follow him to the field, and say, that if there is any one of the institutions of the country, which more emphatically than all the rest, justifies us in arguing strongly, feeling powerfully, and expressing our sentiments as well as urging our reasons with vehemence, it is that branch of the state which, because it is sacred, because it bears connexion with higher principles than any involved in the mere management of worldly concerns, for that very reason, entwines itself with deeper feelings, and must needs be discussed, if discussed at all, with more warmth and zeal than any other part of our system is fitted to rouse. But if any hierarchy in all the world is bound on every principle of consistency—if any Church should be forward not only to suffer but provoke discussion, to stand upon that title and challenge the most unreserved inquiry,—it is the Protestant Church of England; first, because she has nothing to dread from it; secondly, because she is the very creature of free inquiry—the offspring of repeated revolutions—and the most reformed of the reformed Churches of Europe. But surely if there is any one corner of Protestant Europe where men ought not to be rigourously judged in ecclesiastical controversy—where a large allowance should be made for the conflict of irreconcilable opinions—where the harshness of jarring tenets should be patiently borne, and strong, or even violent language, be not too narrowly watched—it is this very realm, in which we live under three different ecclesiastical orders, and owe allegiance to a sovereign, who, in one of his kingdoms, is the head of the Church, acknowledged as such by all men; while, in another, neither he nor any earthly being is allowed to assume that name—a realm composed of three great divisions, in one of which Prelacy is favoured by law and ap-

proved in practice by an Episcopalian people; while, in another, it is protected indeed by law, but abjured in practice by a nation of sectaries, Catholic and Presbyterian; and, in a third, it is abhorred alike by law and in practice, repudiated by the whole institutions of the country, scorned and detested by the whole of its inhabitants. His Majesty, almost at the time in which I am speaking, is about to make a progress through the northern provinces of this island, accompanied by certain of his chosen counsellors, a portion of men who enjoy unenvied, and in an equal degree, the admiration of other countries, and the wonder of their own—and there the Prince will see much loyalty, great learning, some splendour, the remains of an ancient monarchy, and of the institutions which made it flourish. But one thing he will not see. Strange as it may seem, and to many who hear me incredible, from one end of the country to the other he will see no such thing as a bishop; not such a thing is to be found from the Tweed to John o' Groats; not a mitre; no, nor so much as a minor canon, or even a rural dean; and in all the land not one single curate, so entirely rude and barbarous are they in Scotland; in such outer darkness do they sit, that they support no cathedrals, maintain no pluralists, suffer no non-residence; nay, the poor benighted creatures are ignorant even of tithes. Not a sheaf, or a lamb, or a pig, or the value of a plough-penny do the hapless mortals render from year's end to year's end! Piteous as their lot is, what makes it infinitely more touching, is to witness the return of good for evil in the demeanour of this wretched race. Under all this cruel neglect of their spiritual concerns, they are actually the most loyal, contented, moral, and religious people anywhere, perhaps, to be found in the world. Let us hope (many, indeed, there are, not afar off, who will with unfeigned devotion pray) that his Majesty may

return safe from the dangers of his excursion into such a country—an excursion most perilous to a certain portion of the Church, should his royal mind be infected with a taste for cheap establishments, a working clergy, and a pious congregation!

But compassion for our brethren in the north has drawn me aside from my purpose, which was merely to remind you how preposterous it is in a country of which the ecclesiastical polity is framed upon plans so discordant, and the religious tenets themselves are so various, to require any very measured expressions of men's opinions, upon questions of church government. And if there is any part of England in which an ample licence ought more especially to be admitted in handling such matters, I say without hesitation it is this very Bishopric, where in the 19th century, you live under a Palatine Prince, the Lord of Durham; where the endowment of the hierarchy, I may not call it enormous, but I trust I shall be permitted without offence to term splendid; where the establishment I dare not whisper proves grinding to the people, but I will rather say is an incalculable, an inscrutable blessing—only it *is* prodigiously large; showered down in a profusion somewhat overpowering; and laying the inhabitants under a load of obligation overwhelming by its weight. It is in Durham where the Church is endowed with a splendour and a power, unknown in monkish times and popish countries, and the clergy swarm in every corner, an' it were the patrimony of St. Peter,—it is here where all manner of conflicts are at each moment inevitable between the people and the priests, that I feel myself warranted on *their* behalf, and for *their* protection,—for the sake of the Establishment, and as the discreet advocate of that Church and that clergy,—for the defence of their very existence,—to demand the most unrestrained discussion

for their title and their actings under it. For them in this age, to screen their conduct from investigation is to stand self-convicted; to shrink from the discussion of their title, is to confess a flaw; he must be the most shallow, the most blind of mortals, who does not at once perceive that if that title is protected only by the strong arm of the law, it becomes not worth the parchment on which it is engrossed, or the wax that dangles to it for a seal. I have hitherto all along assumed, that there is nothing impure in the practice under the system; I am admitting that every person engaged in its administration does every one act which he ought, and which the law expects him to do; I am supposing that up to this hour not one unworthy member has entered within its pale; I am even presuming that up to this moment not one of those individuals has stept beyond the strict line of his sacred functions, or given the slightest offence or annoyance to any human being. I am taking it for granted that they all act the part of good shepherds, making the welfare of their flock their first care, and only occasionally bethinking them of shearing in order to prevent the too luxuriant growth of the fleece proving an encumbrance, or to eradicate disease. If, however, those operations be so constant that the flock actually live under the knife; if the shepherds are so numerous, and employ so large a troop of the watchful and eager animals that attend them (some of them too with a cross of the fox, or even the wolf, in their breed) can it be wondered at, if the poor creatures thus fleeced, and hunted, and barked at, and snapped at, and from time to time worried, should now and then bleat, dream of preferring the rot to the shears, and draw invidious, possibly disadvantageous comparisons between the wolf without, and the shepherd within the fold—it cannot be helped; it is in the nature of things that suffering

should beget complaint; but for those who have caused the pain to complain of the outcry and seek to punish it,—for those who have goaded to scourge and to gag, is the meanest of all injustice. It is moreover the most pitiful folly for the clergy to think of retaining their power, privileges, and enormous wealth, without allowing free vent for complaints against abuses in the Establishment and delinquency in its members; and in this prosecution they have displayed that folly in its supreme degree. I will even put it that there has been an attack on the hierarchy itself; I do so for argument's sake only; denying all the while, that any thing like such an attack is to be found within the four corners of this publication. But suppose it had been otherwise; I will shew you the sort of language in which the wisest and the best of our countrymen have spoken of that Establishment. I am about to read a passage in the immortal writings of one of the greatest men, I may say, indeed, the greatest genius, which this country, or Europe, has in modern times produced. You shall hear what the learned and pious Milton has said of prelacy. He is arguing against an episcopalian antagonist whom, from his worldly and unscriptural doctrines, he calls a "*Carnal Textman;*" and it signifies not that we may differ widely in opinion with this illustrious man; I only give his words as a sample of the licence with which he was permitted to press his argument, and which in those times went unpunished:—

"That which he imputes as sacrilege to his country, is the only way left them to purge that abominable sacrilege out of the land, which none but the Prelates are guilty of; who for the discharge of one single duty receive and keep that which might be enough to satisfy the labours of many painful Ministers better deserving than themselves,—who possess huge benefices for lazy

performances, great promotions only for the exercise of a cruel disgospelling jurisdiction,—who engross many Pluralities under a Non-resident and slubbering dispatch of souls,—who let hundreds of parishes famish in one Diocess, while they the Prelates are mute, and yet enjoy that wealth that would furnish all those dark places with able supply; and yet they eat and yet they live at the rate of Earls, and yet hoard up; they who chase away all the faithful shepherds of the flock, and bring in a dearth of spiritual food, robbing thereby the Church of her dearest treasure, and sending herds of souls starvelling to hell, while they feast and riot upon the labours of hireling Curates, consuming and purloining even that which by their foundation is allowed and left to the poor, and the reparation of the Church. These are they who have bound the land with the sin of sacrilege, from which mortal engagement we shall never be free, till we have totally removed with one labour, as one individual thing, prelaty and sacrilege." "Thus have ye heard, readers," (he continues, after some advice to the Sovereign, to check the usurpations of the Hierarchy) "how many shifts and wiles the Prelates have invented to save their ill-got booty. And if it be true, as in Scripture it is foretold, that pride and covetousness are the sure marks of those false prophets which are to come, then boldly conclude these to be as great seducers as any of the latter times. For between this and the judgment-day do not look for any arch-deceivers, who in spite of reformation will use more craft, or less shame to defend their love of the world and their ambition, than these Prelates have done."*

If Mr. Williams had dared to publish the tithe part

* Apology for Smectymnuus—published in 1642.

of what I have just read; if any thing in sentiment or in language approaching to it were to be found in his paper, I should not stand before you with the confidence which I now feel; but what he has published forms a direct contrast to the doctrines contained in this passage. Nor is such language confined to the times in which Milton lived, or to a period of convulsion when prelacy was in danger. I will shew you that in tranquil, episcopal times, when the Church existed peacefully and securely as by law established, some of its most distinguished members, who have added to its stability as well as its fame, by the authority of their learning and the purity of their lives, the fathers and brightest ornaments of that Church, have used expressions nearly as free as those which I have cited from Milton, and tenfold stronger than any thing attributed to the defendant. I will read you a passage from Bishop Burnet, one of those Whig founders of the Constitution, whom the Attorney-general has so lavishly praised. He says,

"I have lamented during my whole life that I saw so little true zeal among our clergy; I saw much of it in the clergy of the Church of Rome, though it is both ill-directed and ill-conducted; I saw much zeal, likewise, throughout the foreign churches."

Now comparisons are hateful to a proverb; and it is for making a comparison that the defendant is to-day prosecuted; for his words can have no application to the Church generally, except in the way of comparison. And with whom does the venerable Bishop here compare the clergy? Why, with Antichrist,—with the Church of Rome—casting the balance in her favour—giving the advantage to our ghostly adversary. Next comes he to give the Dissenters the preference over our own clergy:—a still more invidious topic; for it is one of the laws which govern theological controversy

almost as regularly as gravitation governs the universe, that the mutual rancour of conflicting sects is inversely as their distance from each other; and with such hatred do they regard those who are separated by the slightest shade of opinion, that your true intolerant priest abhors a pious sectary far more devoutly than a blasphemer or an atheist: yet to the sectary also does the good Bishop give a decided preference:—

"The dissenters have a great deal (that is of zeal) among them, but I must own that the main body of our clergy has always appeared dead and lifeless to me; and instead of animating one another, they seem rather to lay one another asleep."—"I say it with great regret," (adds the Bishop) "I have observed the clergy in all the places through which I have travelled, Papists, Lutherans, Calvinists and Dissenters; but of them all, our clergy is much the most remiss in their labours in private, and the least severe in their lives. And let me say this freely to you, now I am out of the reach of envy and censure;" (he bequeathed his work to be given to the world after his death) "unless a better spirit possess the clergy, arguments and, which is more, laws and authority will not prove strong enough to preserve the Church."*

I will now shew you the opinion of a very learned and virtuous writer, who was much followed in his day, and whose book, at that time, formed one of the manuals by which our youth were taught the philosophy of morals to prepare them for their theological studies, I mean Dr. Hartley:—

"I choose to speak of what falls under the observation of all serious attentive persons in the kingdom. The superior clergy are in general ambitious, and eager

* History of His own Times, ii. 641.

in the pursuit of riches—flatterers of the great, and subservient to party interest—negligent of their own particular charges, and also of the inferior clergy. The inferior clergy imitate their superiors, and in general take little more care of their parishes than barely what is necessary to avoid the censure of the law; and the clergy of all ranks are in general either ignorant, or if they do apply, it is rather to profane learning, to philosophical or political matters, than in the study of the Scriptures, of the oriental languages, and the Fathers. I say this is in general the case; that is, far the greater part of the clergy of all ranks in the kingdom are of this kind."

I here must state that the passage I have just read is very far from meeting my approval, any more than it speaks the defendant's sentiments, and especially in its strictures upon the inferior clergy; for certainly it is impossible to praise too highly those pious and useful men, the resident, working parish priests of this country. I speak not of the dignitaries, the pluralists and sinecurists, but of men neither possessing the higher preferments of the Church, nor placed in that situation of expectancy so dangerous to virtue; the hard working, and I fear too often hard living, resident clergy of this kingdom, who are an ornament to their station, and who richly deserve that which in too many instances is almost all the reward they receive, the gratitude and veneration of the people committed to their care. But I read this passage from Dr. Hartley, not as a precedent followed by the defendant; for he has said nothing approaching to it—not as propounding doctrine authorised by the fact, or which in reasoning he approves—but only for the purpose of shewing to what lengths such discussion of ecclesiastical abuses, (which, it seems, we are now, for the first time, to hold our peace about) was carried near a cen-

tury ago, when the freedom of speech, now to be stifled as licentiousness, went not only unpunished, but unquestioned and unblamed. To take a much later period, I hold in my hand an attack upon the hierarchy by one of their own body—a respectable and beneficed clergyman in the sister County Palatine of Chester, who undertook to defend the Christian religion, itself the basis, I presume I may venture to call it, of the Church, against Thomas Paine. In the course of so pious a work, which he conducted most elaborately, as you may perceive by the size of this volume, he inveighs in almost every page against the abuses of the Establishment, but in language, which I am very far from adopting. In one passage is the following energetic, and, I may add, somewhat violent invective, which I will read, that you may see how a man, unwearied in the care of souls, and so zealous a Christian that he is in the act of confuting infidels and putting scoffers to silence, may yet, in the very course of defending the Church and its faith, use language, any one word of which, if uttered by the defendant, would make my learned friend shudder at the licence of the modern press upon sacred subjects.

"We readily grant, therefore, you see, my countrymen, that the corruptions of Christianity shall be purged and done away; and we are persuaded the wickedness of Christians so called, the lukewarmness of professors, and the reiterated attacks of infidels upon the Gospel, shall all, under the guidance of infinite wisdom, contribute to accomplish this end."

I have read this sentence to shew you the spirit of piety in which the work is composed; now see what follows:

"The lofty looks of lordly Prelates shall be brought low; the supercilious airs of downy Doctors and perjured Pluralists shall be humbled; the horrible sacri-

lege of Non-residents, who shear the fleece, and leave the flock thus despoiled to the charge of uninterested hirelings that care not for them, shall be avenged on their impious heads. Intemperate Priests, avaricious Clerks, and buckish Parsons, those curses of Christendom, shall be confounded. All secular hierarchies in the Church shall be tumbled into ruin; lukewarm Formalists, of every denomination, shall call to the rocks and mountains to hide them from the wrath of the Lamb."

This is the language—these are the lively descriptions—these the warm, and I will not hesitate to say, exaggerated pictures which those reverend authors present of themselves; these are the testimonies which they bear to the merits of one another; these are opinions coming, not from the enemy without, but from the true, zealous, and even intemperate friend within. And can it be matter of wonder that laymen should sometimes raise their voices tuned to the discords of the sacred choir? And are they to be punished for what secures to clergymen followers, veneration, and—preferment? But I deny that Mr. Williams is of the number of followers; I deny that he has taken a leaf or a line out of such books; I deny that there is any sentiment of this cast, or any expression approaching to those of Dr. Simpson, in the publication before you. But I do contend that if the real friends of the Church, if its own members, can safely indulge in such language, it is ten thousand times more lawful for a layman, like the defendant, to make the harmless observations which he has published, and in which I defy any man to shew me one expression hostile to our ecclesiastical establishment.

[Mr. Brougham then read the following passage from the libel:]

"We know not whether any actual orders were issued to prevent this customary sign of mourning; but the omission plainly indicates the kind of spirit which predominates among our clergy. Yet these men profess to be followers of Jesus Christ, to walk in his footsteps, to teach his precepts, to inculcate his spirit, to promote harmony, charity, and Christian love! Out upon such hypocrisy!"

That you may understand the meaning of this passage, it is necessary for me to set before you, the picture my learned friend was pleased to draw of the clergy of the Diocese of Durham, and I shall recall it to your minds almost in his own words. According to him they stand in a peculiarly unfortunate situation; they are, in truth, the most injured of men. They all, it seems, entertained the same generous sentiments with the rest of their countrymen, though they did not express them in the old, free, English manner, by openly condemning the proceedings against the late Queen; and after the course of unexampled injustice against which she victoriously struggled had been followed by the needless infliction of inhuman torture, to undermine a frame whose spirit no open hostility could daunt, and extinguish a life so long embittered by the same foul arts—after that great Princess had ceased to harass her enemies (if I may be allowed thus to speak, applying, as they did, by the perversion of all language, those names to the victim which belong to the tormentor)—after her glorious but unhappy life had closed, and that Princely head was at last laid low by death, which, living, all oppression had only the more illustriously exalted—the venerable the Clergy of Durham, I am now told for the first time, though less forward in giving vent to their feelings than the rest of their fellow-citizens—though not so vehement in their indignation at the matchless and unmanly persecution

of the Queen,—though not so unbridled in their joy at her immortal triumph, nor so loud in their lamentations over her mournful and untimely end—did, nevertheless, in reality, all the while, deeply sympathise with her sufferings, in the bottom of their reverend hearts! When all the resources of the most ingenious cruelty hurried her to a fate without parallel—if not so clamorous as others, they did not feel the least of all the members of the community—their grief was in truth too deep for utterance—sorrow clung round their bosoms, weighed upon their tongues, stifled every sound—and, when all the rest of mankind, of all sects and of all nations, freely gave vent to the feelings of our common nature, THEIR silence, the contrast which THEY displayed to the rest of their species, proceeded from the greater depth of their affliction; they said the less because they felt the more!—Oh! talk of hypocrisy after this! Most consummate of all the hypocrites! After instructing your chosen, official advocate to stand forward with such a defence—such an exposition of your motives—to dare utter the word hypocrisy, and complain of those who charged you with it! This is indeed to insult common sense, and outrage the feelings of the whole human race! If you were hypocrites before, you were downright, frank, honest hypocrites to what you have now made yourselves—and surely, for all you have ever done, or ever been charged with, your worst enemies must be satiated with the humiliation of this day, its just atonement, and ample retribution!

If Mr. Williams had known the hundredth part of this at the time of Her Majesty's demise—if he had descried the least twinkling of the light which has now broke upon us, as to the real motives of their actions—I am sure this cause would never have been tried; because to have made any one of his strictures upon

their conduct, would have been not only an act of the blackest injustice,—it would have been perfectly senseless. But can he be blamed for his ignorance, when such pains were taken to keep him in the dark? Can it be wondered at that he was led astray, when he had only so false a guide to their motives as their conduct, unexplained, afforded? When they were so anxious to mislead, by facts and deeds, is his mistake to be so severely criticised? Had he known the real truth, he must have fraternised with them; embraced them cordially; looked up with admiration to their superior sensibility; admitted that he who feels most, by an eternal law of our nature, is least disposed to express his feelings; and lamented that his own zeal was less glowing than theirs; but ignorant and misguided as he was, it is no great marvel that he did not rightly know the real history of their conduct, until about three-quarters of an hour ago, when the truth burst in upon us, that all the while they were generously attached to the cause of weakness and misfortune!

Gentlemen, if the country, as well as Mr. Williams, has been all along so deceived, it must be admitted that it is not from the probabilities of the case. Judging before-hand, no doubt, any one must have expected the Durham clergy, of all men, to feel exactly as they are now, for the first time, ascertained to have felt. They are Christians; outwardly at least, they profess the gospel of charity and peace; they beheld oppression in its foulest shape; malignity and all uncharitableness putting on their most hideous forms; measures pursued to gratify prejudices in a particular quarter, in defiance of the wishes of the people, and the declared opinions of the soundest judges of each party; and all with the certain tendency to plunge the nation in civil discord. If for a moment they had been led away by a dislike of cruelty and of civil war,

to express displeasure at such perilous doings, no man could have charged them with political meddling; and when they beheld truth and innocence triumph over power, they might as Christian ministers, calling to mind the original of their own Church, have indulged without offence in some little appearance of gladness; a calm, placid satisfaction, on so happy an event, would not have been unbecoming their sacred station. When they found that her sufferings were to have no end; that new pains were inflicted in revenge for her escape from destruction, and new tortures devised to exhaust the vital powers of her whom open, lawless violence had failed to subdue—we might have expected some slight manifestation of disapproval from holy men who, professing to inculcate loving-kindness, tender mercy, and good will to all, offer up their daily prayers for those who are desolate and oppressed. When at last the scene closed, and there was an end of that persecution which death alone could stay; but when not even her unhappy fate could glut the revenge of her enemies; and they who had harassed her to death now exhausted their malice in reviling the memory of their victim; if among them had been found, during her life, some miscreant under the garb of a Priest, who, to pay his court to power, had joined in trampling upon the defenceless; even such a one, bare he the form of a man, with a man's heart throbbing in his bosom, might have felt even *his* fawning, sordid, calculating malignity assuaged by the hand of death; even *he* might have left the tomb to close upon the sufferings of the victim. All probability certainly favoured the supposition that the clergy of Durham would not take part against the injured, because the oppressor was powerful; and that the prospect of emolument would not make them witness with dry eyes and hardened hearts the close of a life which

they had contributed to embitter and destroy. But I am compelled to say that their whole conduct has falsified those expectations. They sided openly, strenuously, forwardly, officiously, with power, in the oppression of a woman, whose wrongs this day they for the first time pretend to bewail in their attempt to cozen you out of a verdict, behind which they may skulk from the inquiring eyes of the people. Silent and subdued in their tone as they were on the demise of the unhappy Queen, they could make every bell in all their chimes peal when gain was to be expected by flattering present greatness. Then they could send up addresses, flock to public meetings, and load the press with their libels, and make the pulpit ring with their sycophancy, filling up to the brim the measure of their adulation to the reigning monarch, Head of the Church and Dispenser of its Patronage.

In this contrast originated the Defendant's feelings, and hence the strictures which form the subject of these proceedings. I say the publication refers exclusively to the clergy of this city and its suburbs, and especially to such parts of that clergy as were concerned in the act of disrespect towards her late Majesty, which forms the subject of the alleged libel; but I deny that it has any reference whatever to the rest of the clergy, or evinces any designs hostile either to the stability of the Church, or the general character and conduct of its ministers. My learned friend has said that Mr. Williams had probably been bred a sectary, and retained sectarian prejudices. No argument is necessary to refute this supposition. The passage which has been read to you carries with it the conviction that he is no sectary, and entertains no schismatical views against the Church; for there is a more severe attack upon the sectaries themselves, than upon the clergy of Durham. No man can have the least hesi-

tation in saying, that the sentiments breathed in it are any thing but those of a sectary. For myself, I am far from approving the contemptuous terms in which he has expressed himself of those who dissent from the Establishment; and I think he has not spoken of them in the tone of decent respect that should be observed to so many worthy persons, who, though they differ from the Church, differ from it on the most conscientious grounds. This is the only part of the publication of which I cannot entirely approve, but it is not for this that he is prosecuted. Then, what is the meaning of the obnoxious remarks? Are they directed against the Establishment? Are they meant to shake or degrade it? I say that no man who reads them can entertain a moment's doubt in his mind, that they were excited by the conduct of certain individuals, and the use which he makes of that particular conduct, the inference which he draws from it, is not invective against the Establishment, but a regret that it should by such conduct be lowered. He says no more than this:—"These are the men who do the mischief; ignorant and wild fanatics are crowding the tabernacles, whilst the Church is deserted," and he traces, not with exultation but with sorrow, the cause of the desertion of the Church, and the increase of conventicles. "Here," says he, "I have a fact which accounts for the clergy sinking in the estimation of the community, and I hold up this mirror, not to excite hostility towards the Established Church, nor to bring its ministers into contempt among their flocks, but to teach and to reclaim those particular persons who are the disgrace and danger of the Establishment, instead of being, as they ought, its support and its ornament." He holds up to them that mirror in which they may see their own individual misconduct, and calculate its inevitable effects upon the security and honour of the Establish-

ment which they disgrace. This is no lawyer-like gloss upon the passage—no special pleading construction, or far-fetched refinement of explanation—I give the plain and obvious sense which every man of ordinary understanding must affix to it. If you say that such an one disgraces his profession, or that he is a scandal to the cloth he wears, (a common form of speech, and one never more in men's mouths than within the last fortnight, when things have happened to extort an universal expression of pain, sorrow, and shame), do you mean by such lamentations to undermine the Establishment? In saying that the purity of the cloth is defiled by individual misconduct, it is clear that you cast no imputation on the cloth generally; for an impure person could not contaminate a defiled cloth. Just so has the defendant expressed himself, and in this light I will put his case to you. If he had thought that the whole Establishment was bad; that all its ministers were time-servers, who, like the spaniel, would crouch and lick the hand that fed it, but snarl and bite at one which had nothing to bestow—fawning upon rich and liberal patrons, and slandering all that were too proud or too poor to bribe them; if he had painted the Church as founded upon imposture, reared in time-serving, cemented by sordid interest, and crowned with spite, and insolence, and pride—to have said that the Durham clergy disgraced such a hierarchy, would have been not only gross inconsistency, but stark nonsense. He must rather have said that they were worthy members of a base and grovelling establishment—that the church was as bad as its ministers—and that it was hard to say whether they more fouled it or were defiled by it. But he has said nothing that can bring into jeopardy or discredit an institution which every one wishes to keep pure, and which has nothing to dread so much as the follies and crimes of its supporters.

Gentlemen, you have to-day a great task committed to your hands. This is not the age—the spirit of the times is not such—as to make it safe, either for the country or for the Government, or for the Church itself, to veil its mysteries in secrecy; to plant in the porch of the temple a Prosecutor brandishing his flaming sword, the Process of the Law, to prevent the prying eyes of mankind from wandering over the structure. These are times when men *will* inquire, and the day most fatal to the Established Church, the blackest that ever dawned upon its ministers, will be that which consigns this defendant, for these remarks, to the horrors of a gaol, which its false friends, the chosen objects of such lavish favour, have far more richly deserved. I agree with my learned friend, that the Church of England has nothing to dread from external violence. Built upon a rock, and lifting its head towards another world, it aspires to an imperishable existence, and defies any force that may rage from without. But let it beware of the corruption engendered within and beneath its massive walls; and let all its well-wishers—all who, whether for religious or political interests, desire its lasting stability—beware how they give encouragement, by giving shelter, to the vermin bred in that corruption, who "*stink and sting*" against the hand that would brush the rottenness away. My learned friend has sympathised with the priesthood, and innocently enough lamented that they possess not the power of defending themselves through the public press. Let him be consoled; they are not so very defenceless—they are not so entirely destitute of the aid of the press as through him they have represented themselves to be. They have largely used that press (I wish I could say "as not abusing it,") and against some persons very near me,—I mean especially against the defendant, whom they have scurrilously and foully libelled through that

great vehicle of public instruction, over which, for the first time, among the other novelties of the day, I now hear they have no controul. Not that they wound deeply or injure much; but that is no fault of theirs —without hurting, they give trouble and discomfort. The insect brought into life by corruption, and nestled in filth, though its flight be lowly and its sting puny, can swarm and buzz, and irritate the skin and offend the nostril, and altogether give nearly as much annoyance as the wasp, whose nobler nature it aspires to emulate. These reverend slanderers—these pious backbiters—devoid of force to wield the sword, snatch the dagger, and destitute of wit to point or to barb it, and make it rankle in the wound, steep it in venom to make it fester in the scratch. The much venerated personages whose harmless and unprotected state is now deplored, have been the wholesale dealers in calumny, as well as largest consumers of the base article—the especial promoters of that vile traffic, of late the disgrace of the country—both furnishing a constant demand for the slanders by which the press is polluted, and prostituting themselves to pander for the appetites of others; and now they come to demand protection from retaliation, and shelter from just exposure; and to screen themselves, would have you prohibit all scrutiny of the abuses by which they exist, and the mal-practices by which they disgrace their calling. After abusing and well-nigh dismantling, for their own despicable purposes, the great engine of instruction, they would have you annihilate all that they have left of it, to secure their escape. They have the incredible assurance to expect that an English jury will conspire with them in this wicked design. They expect in vain! If all existing institutions and all public functionaries must henceforth be sacred from question among the people; if, at

length, the free press of this country, and with it the freedom itself, is to be destroyed—at least let not the heavy blow fall from your hands. Leave it to some profligate tyrant; leave it to a mercenary and effeminate Parliament—a hireling Army, degraded by the lash, and the readier instrument for enslaving its country; leave it to a pampered House of Lords—a venal House of Commons—some vulgar minion, servant-of-all-work to an insolent Court—some unprincipled soldier, unknown, thank God! in our times, combining the talents of a usurper with the fame of a captain; leave to such desperate hands, and such fit tools, so horrid a work! But you, an English jury, parent of the press, yet supported by it, and doomed to perish the instant its health and strength are gone—lift not you against it an unnatural hand. Prove to us that our rights are safe in your keeping; but maintain, above all things, the stability of our institutions, by well-guarding their corner-stone. Defend the Church from her worst enemies, who, to hide their own misdeeds, would veil her solid foundations in darkness; and proclaim to them by your verdict of acquittal, that henceforward, as heretofore, all the recesses of the sanctuary must be visited by the continual light of day, and by that light all its abuses be explored!

[After the learned Judge had summed up to the Jury, they retired, and remained inclosed for above five hours. They then returned the following special verdict, viz.:—"Guilty of so much of the matter in the first count as charges a libel upon the Clergy residing in and near the City of Durham, and the suburbs thereof, and as to the rest of the first count, and the other counts of the Information, Not Guilty."]

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IN MICHAELMAS TERM FOLLOWING,

Nov. 1822,

MR. SCARLETT moved for judgment on this defendant, who was found guilty at the last assizes for the County of Durham, on a Criminal Information granted by this Court, for a libel.

The LORD CHIEF JUSTICE. Mr. Brougham moves in arrest of judgment?

MR. BROUGHAM. Yes, my Lord, and also for a new trial.

The LORD CHIEF JUSTICE. Then the defendant is, I presume, in Court?

MR. BROUGHAM. He has been here, my Lord; but we did not in the least expect the case to come on to-day, and I believe he is gone. I can, at least, move in arrest of judgment, and I dare say he will be here before I find it necessary to state my grounds for a new trial.

MR. SCARLETT. I know that the defendant is in town, and has been here this morning. As far, therefore, as I am concerned, I beg to wave any objection to Mr. Brougham's proceeding.

The LORD CHIEF JUSTICE. Then Mr. Brougham may proceed. You move first for a new trial?

MR. BROUGHAM. No, first in arrest of judgment; and then I shall shew my grounds for thinking that a new trial ought to be granted.

MR. JUSTICE BEST then read Mr. Baron Wood's re-

port of the trial. The learned Judge had stated the verdict to be—"Guilty on the second count of the information."

MR. BROUGHAM said he should first draw the attention of the Court to the record, and shew that it was so defective that no judgment could be pronounced upon it. This would appear on more particularly comparing the verdict with the Information.

MR. JUSTICE BAYLEY. The verdict is entered upon the second count of the Information.

MR. BROUGHAM. No, my Lord; it is on the first count, and is in these words—"Guilty of a libel on the Clergy residing in and near the City of Durham, and the suburbs thereof."

MR. SCARLETT. No, it is on the learned Judge's notes.

MR. BROUGHAM begged to refer to the record.

MR. JUSTICE BAYLEY accordingly looked at the record. The endorsement on the postea corresponded with the learned Judge's notes, but the record itself was in these words—"And the jurors aforesaid say that he, the said defendant, is guilty of so much of the first count as charges a libel on the Clergy residing in and near the City of Durham, and the suburbs thereof—and as to the rest of the first count and the other counts of the Information, he is not guilty."

MR. BROUGHAM proceeded. He would now draw the attention of the Court to the first count in the Information, the only one to which he should have occasion to revert, as the defendant was acquitted on all the others. This count charged him with "printing and publishing a libel, of and concerning the United Church of England and Ireland, and of and concerning the Clergy of that Church, and the Clergy residing in and near the City of Durham and the suburbs thereof;" not repeating the words "of and concerning," be-

fore the words "the Clergy residing in and near the City of Durham."

MR. SCARLETT asserted, that the words "of and concerning" were in his copy of the Information.

MR. JUSTICE BAYLEY read the passage from the record, which proved that Mr. Brougham was correct.

MR. SCARLETT. It was so in my copy, I was equally confident with you.

MR. BROUGHAM. Yes; but there was this difference—you were confident and wrong; I was confident and right. The difference was merely between a well-founded observation, and one that had no foundation at all. I only mention this to prevent any further interruptions, of which I have had two already. The learned Counsel then proceeded to take two objections to the record;—first, that the count charged an offence different from that which the Jury had found; and, second, that the offence of which the Jury had found the defendant guilty, supposing it to be the same with that stated, was in itself too vague and uncertain to be made the foundation of any judgment. And first he would contend that the Information charged one offence, and the Jury had found another. The count set forth the libel as "of and concerning the United Church of England and Ireland, and of and concerning the Clergy of that Church, and the Clergy residing in the City of Durham and the suburbs thereof;" and the Jury had found that there was no libel on the United Church or the Clergy thereof, but on the clergy of Durham. Now he would contend that, even if the words, "of and concerning" had been repeated, and even if the Clergy of Durham were a body distinct from the body of the United Church—thus putting the case far stronger than it was for the prosecution—that the description was one entire description, and could not be severed. Not only was there no separate count for

a libel on the Clergy of Durham (the introduction of which would have been the easiest thing in the world) but there was not even in this count any undivided averment of a libel on them. Suppose a libel were charged "of and concerning A and B ;" and suppose A and B were distinct persons, entirely unconnected with each other, and the Jury found that the libel was concerning "A" only, they would find an offence different from that of which they were charged to inquire. There was a case not nearly so strong as this, that of "Lewis and Walter," which had been argued, but which the Court had not yet decided, where a similar objection was taken, and where the leaning of some, if not all the Judges, seemed strongly in favour of the objection. There the defendant was charged with a libel "of and concerning the plaintiff, and of and concerning him as an attorney;" at the trial there was no proof of his professional character, and the Lord Chief Justice accordingly nonsuited the plaintiff, because, though the publication would be a libel on him in his personal character, he held the plaintiff bound by his averment, and that it was one description of one wrong. The case cited in argument for the plaintiff of "Dickens *v.* Cogswell," was clearly inapplicable; for there the averment "of and concerning the plaintiff as an appraiser and carpenter" was clearly partible: and so the Court seemed to regard it. But the present case was far stronger than "Lewis *v.* Walter;" because here, instead of referring to two distinct characters of the same person, or two distinct individuals like "A and B," the Clergy of Durham (if they meant any person at all) were included in the previous description, "the Clergy of the United Church." It was as if the charge had been "of and concerning a certain community, and of and concerning a certain person as a member of that community;" in

which case the libel, if any thing would be a libel on the community, as the member *qua* member, could not be severed from it. But here the defendant was actually acquitted of libelling the Clergy in general; and yet found guilty of libelling a body who only had existence as a part of this Clergy; and this without any distinct allegation, or any divisable averment. Here he might advert to the uncertainty of the description, which he should make a substantive objection, as strengthening that which he was now urging; for even this part of the Church, at best to be so taken—was so vaguely described, as, when severed from the rest, to mean nothing. If the description of the Clergy of Durham was explained as referring to some part of the "United Church," then the acquittal applied to the larger included the less; if it was taken independently, then it referred to no recognised body, and had no meaning at all. This brought him to the second objection—that the offence charged was altogether uncertain. First, there was nothing to define the exact meaning of the word "Clergy"—nothing whatever to limit it to the ministers of the Established Church.

Mr. Justice Best. Are Dissenters ever called Clergy?

Mr. Brougham replied that they were so called in many acts of Parliament; among others, in the 48th of George III., which in its title purported to be "An Act concerning the Clergy of Scotland." But if the dissenting preachers were not legally denominated Clergy, and he contended that they were, the Catholic Priests had, unquestionably, a right to the title; they were so treated in the acts of Henry VIII.; and they had only to abjure to become at once in full orders, and to receive the highest dignities of the Church. At this very time there was a Bishop who had never taken orders in the Protestant Church, but

had merely passed from the Romish Church into ours. The term "Clergy," therefore, was altogether vague without further explanation; for it was impossible to import that part of the description of which the defendant had been acquitted, into the other part of which he had been found guilty; on the contrary, the opposite finding seemed to negative all connexion between them. Next, what was meant by the term "near?" Was it one, or two, or ten, or twenty miles? Each man would reply according to his own ideas of nearness, and perhaps no two persons would agree as to the limits within which the libelled Clergy resided. The term "suburbs," was again ambiguous; so that here was a further latitude of proximity almost running into distance. Here, then, the word "Clergy" was ambiguous; the class of Clergy was ambiguous; and if the Court could find no meaning in what the Jury had found, they would not look for it in what they had negatived. And now, leaving these points, he would contend that even supposing the clergy of the Established Church in the City of Durham to be intended, these did not form a body whom the Court meant to protect when they granted the Rule. At the time when the Rule was argued, the publication was called "a libel on the Church of England;" Mr. Scarlett demanded protection for that Church; the Lord Chief Justice three times interrupted the argument when proceeding, on the ground that the clergy of Durham were the applicants, by observing, "this is a libel on the Church of England;" and when he (Mr. Brougham) contended that it applied only to the Clergy of Durham, he was met by the same answer. Now, he did not believe that the Court ever would have granted the Rule had it been applied for in the terms of the verdict, "for a libel on the clergy residing in and near the City of Durham and the suburbs thereof;" for

whenever the Court had thus interfered, it was either on behalf of some individual, or some definite body of men recognized by the law. Every case cited by Mr. Scarlett on that occasion was consistent with this principle. The King *v.* the Justices of Staffordshire was entirely of this nature; for where could be found a more definite body of men than those in the commission of the peace for a particular county? In the case where application was made against certain Justices of Middlesex sitting in Litchfield-street, the motion was refused until affidavits were produced shewing what particular magistrate sat there, and then the Rule was granted. In "the King *v.* Jerome," which was a libel on the Directors of the East India Company, the Information was granted, because the Directors were a distinct body, chartered by Act of Parliament, and not like the Counsel at a particular bar, or a particular circuit. The case of "the King *v.* Orme and Nutt," reported in 1 Lord Raymond, 486, was also more fully reported as to this particular point in 3d Salkeld, 224.

Mr. Justice Bayley. Third Salkeld is a very questionable authority; it is not like the first and second volumes of those reports.

Mr. Brougham said he was aware of this, and he would not have quoted it had it differed from the Report in Lord Raymond; but it was consistent with it, and only carried the statement a little further. In Lord Raymond it appeared that the libel was on "certain ladies of London," which was removed by *certiorari*, because the Recorder stated that he thought himself affected by it, and in Salkeld it was laid down that "where a writing inveighs against mankind in general, or against a particular order of men—as for instance men of the gown—it is no libel; but it must descend to particulars and individuals to make it a libel." In Lord Raymond it appeared that more spe-

cific averments to point out the individuals designed were necessary, and probably these were supplied.

MR. JUSTICE BAYLEY. Yes: because you cannot say a writing is false and scandalous unless you know to whom it applies.

MR. BROUGHAM replied that this was exactly his argument. He then came to "The King *v.* Osborne," which had been cited by Mr. Swanston, a reporter to whose industry and research the profession were greatly indebted, and who had searched the MSS. in Lincoln's Inn Library for his materials, in the notes to the case for the Bedford charity, which was argued in Chancery in 1818, and where the legal relation of the Jews came chiefly in question. This was a libel charging that certain Jews who had lately arrived from Portugal and lived near Broad-street, had murdered a woman and her child, in consequence of which numbers of persons were assaulted, and terrible riots were excited. It was one of those charges on bodies of men of systematic murder which were frequently made in dark times to inflame the passions of their bigotted neighbours, and which called imperiously for the interference of courts of justice. In that case the Judge seemed to consider the information as improper for a libel; but regarded it as good for a great misdemeanour, which it was absolutely necessary to repress. He had now finished his argument in arrest of judgment, and hoped that he had shewn enough to induce the Court to grant a Rule to shew cause.

The LORD CHIEF JUSTICE intimated that it would be more convenient to hear the whole case now.

MR. BROUGHAM said he would proceed very shortly to state his grounds for a new trial; and he thought, that even if the Court should not see in the variance between the Information and the Verdict, sufficient reason for arresting the judgment, they would suffer the

argument strongly to incline them to a new trial. If they saw that they had granted the Information for one offence, and the defendant had been found guilty of another —if he had actually been acquitted of that which was urged before them, and convicted on a ground hardly, if at all, in the contemplation of either side—they would feel disposed to submit the case to another jury. The defendant was placed in a most unfortunate situation by the course of proceedings; for had the Rule been moved for on the ground upon which he was found guilty—had it been specifically applied for solely on behalf of the Durham Clergy, the Court would never have waved the salutary practice of compelling each Prosecutor to show, by his oath, that he came into Court with clean hands. Then the defendant would have had the opportunity of showing the offences of which each individual had been guilty, and of proving by affidavit the truth of every tittle of his charges. At the trial, the Counsel for Mr. Williams were entirely misled by the notice of the record, and by the speech of the Prosecutor's Counsel. The case (as the learned judge might testify) proceeded entirely on the question whether the publication was a libel on the Church of England? and to this point all his (Mr. Brougham's) reasoning was directed. Had he supposed that his client was called on to answer for a libel on the Durham Clergy, he would not have expended all his strength in showing that it was not a libel on the Established Church. He should not have made quotation after quotation from the works of pious men to show how that Church had been characterized; but he should have bent all his strength to show that the paragraph contained no libel on the Clergy in and near Durham. On that point he had not yet been heard; of that on which he had been heard the defendant was acquitted; of that on which he had not been heard, he was found

guilty. Had he been duly apprised that this was the pith of the Information, and applied himself to that point, the jury might have arrived at a different conclusion. His next ground for a new trial was, that the verdict was against evidence, because the Court charged the defendant "with printing and publishing," and the witnesses for the prosecution expressly proved that Mr. Williams was not the printer.

The LORD CHIEF JUSTICE asked if the newspaper did not purport to be printed by Mr. Williams?

MR. SCARLETT said he had not the particular paper proved; but he had another paper which purported to be printed and published by and for the defendant.

The LORD CHIEF JUSTICE observed, that at all events, the objection might be obviated by applying to the learned judge, for leave to amend the verdict by entering it on another count for publishing only.

MR. BROUGHAM said, he did not rely on this point, though he thought it right to mention it. His next ground was the misdirection of the learned judge. And first, Mr. Baron Wood in his charge told the jury, "The Court of King's Bench have been of opinion that this is a libel, and a fit subject for prosecution." Now the first part of this direction was incorrect; the Court had not given opinion that it was a libel, but had merely given opinion that it was a fit subject for a jury to consider whether it was or was not a libel. But if the jury supposed that the case was merely sent to them to execute the opinion of the Court—

MR. JUSTICE BAYLEY.—He did not tell them that, I suppose?

MR. BROUGHAM.—No; but they might infer it.

MR. JUSTICE BAYLEY.—Did he not tell them what his own opinion was?

MR. BROUGHAM.—Yes; and that is another ground for a new trial.

The LORD CHIEF JUSTICE.—Then almost every judge who has tried a case of libel since the Act passed has been in error; for it has been the uniform practice for the judge to state his opinion, leaving the jury to exercise their own judgment.

MR. BROUGHAM.—Undoubtedly; but he ought not to state it as the opinion of the Court, who have only said that it is a fit subject for inquiry.

MR. JUSTICE BEST.—Is it more than saying "the Grand Jury have found a bill?"

MR. BROUGHAM submitted that it was very different; it was almost overwhelming the minds of the jury, to tell them in effect that if they found the publication not a libel, they differed from the highest criminal Court in the kingdom. His Lordship also said, "I am required by law to give you my opinion." Here again he was incorrect; he was not required, but only authorized to give his opinion, as in other cases; and Lord Ellenborough once, in a similar case, having inadvertently used the word "required," corrected himself, and substituted "not required, but it is expected of me."

MR. JUSTICE BAYLEY.—Do you really think you can prevail on the Court to grant you a new trial, because a judge has used the word "required" instead of "authorized?" He does not say, I presume, that he is dissatisfied with having said so?

MR. BROUGHAM.—No; the report is silent on that subject; he says nothing either way. The learned judge also broadly stated—"Every publication tending to bring an establishment of this country into hatred or contempt is a libel." This was much too wide: it might be in the highest degree praiseworthy to bring an establishment into hatred and contempt—to show that its abuses must be corrected, or even that it must be done away; the propriety or impropriety of such attempt would depend on the manner in which it

was pursued. There were many excellent men who had exerted all their powers to abolish some of our establishments; and who had passed lives of honourable toil for this purpose without reproach. That which at one time was useful, might become noxious at another; and was it not then to be brought into hatred and contempt in order to its removal? The Small Pox Hospital, for example, was of the highest utility when it was founded; but after the vaccine inoculation was discovered, it became pernicious; and Lord Ellenborough intimated that it might be prosecuted as a pest-house, unless its baneful effects were prevented: yet here was an establishment, chartered by Act of Parliament, and at one period among the noblest of our charities. There were other establishments which it might be the duty of all good men to expose. For instance, the office of third Secretary of State. Was it a crime to show that this establishment was useless—to cover it with ridicule —to show that it was despicable and abominable in the existing state of the country?

The Lord Chief Justice.—I am not prepared to say that this may be done by publication. There is a place where such arguments may be used with freedom. At the same time I do not say that an argumentative discussion of the establishment designed to show its inutility would be a libel.

Mr. Brougham.—In that I entirely agree; the whole distinction lies in the manner, and this distinction the learned judge never submitted to the jury.

Mr. Justice Best.—Yes; because he says any publication tending to bring an establishment into "contempt," that cannot be by fair discussion.

Mr. Brougham.—O yes, my Lord. To bring that which is pernicious into contempt is the object of all discussion, and even ridicule is often a fair weapon. I am sure we should not be now sitting under a reformed

Church—that "United Church" of which the Information speaks would never have existed—but for the use of this weapon against Popery. These (continued Mr. Brougham) were his grounds for asking a new trial, in case the judgment should not be arrested; but he again submitted, on the two points which he first brought to the consideration of the Court, that the record was so inconsistent with the finding, and so imperfect in itself, that no judgment could be founded upon it.

The LORD CHIEF JUSTICE.—You do not mean to say that the learned Judge did not leave the question at last to the jury?

MR. BROUGHAM.—Certainly not, my lord.

The LORD CHIEF JUSTICE consulted with the other judges for a few minutes, and then said, "You may take a Rule to show cause why the judgment should not be arrested; but we all think that you have laid no ground before us for a new trial. The points in arrest of judgment are those on which you yourself chiefly rested."

MR. BROUGHAM.—I relied on them chiefly, without doubt.

MR. SCARLETT.—My learned friend would rather have the verdict he has at present, than any that a new trial would give him.

The LORD CHIEF JUSTICE.—Will you consent to a new trial, then, Mr. Scarlett?

MR. SCARLETT said, that as the defendant was in town, it would be desirable to know whether the case could come on this term.

The LORD CHIEF JUSTICE replied, that it was quite impossible that it could come on during the present term.

MR. BROUGHAM took his Rule to show cause why the judgment should not be arrested.

# DISSERTATION

ON THE

# LAW OF LIBEL AND SLANDER.

# DISSERTATION.

THE unsatisfactory state of our Libel Law in almost every particular, is brought very strongly into view by the proceedings in the Durham case; and it may not be unprofitable to the great cause of Law Reform, and above all, to the important interests of the Liberty of the Press, if we take a short view of the Objects towards which that law ought to be directed,—the degree and the direction in which it falls short of them,—and the Remedies by which it might be better enabled to attain them.

1. The true and legitimate objects of the Law of Libel are, to secure the public peace against inflammatory and seditious publications, and to protect private character from slander; without so far hampering the discussion of men's measures and of their public characters as to injure the great interests of liberty and good government, or so far removing the salutary controul of public opinion from notorious private vices, as to be-

stow impunity upon ostentatious immorality. These objects never can be accomplished as regards public libels unless there are certain protections thrown round those who discuss public questions and public characters, and certain difficulties thrown in the way of State prosecutions. Nor can it be accomplished as regards private slander, unless the defence of the injured character is made so easy, safe, and effectual, that the legal proceeding shall not be either loaded with ruinous expence, nor shall imply a consciousness of guilt, nor shall aggravate rather than remove the mischief done.

2. In all these particulars, however, the law of this country is singularly defective. The charge brought by the writer against the government, or against the public character of any functionary of the State, may be ever so true, and ever so fit or even necessary to be stated plainly, strongly, and even vehemently, and yet the statement may be as severely punished as if it were from beginning to end false. A minister may have taken a bribe to betray his trust; he may, to gratify his private revenge, have exposed a worthy colleague to destruction; he may, to get rid of a rival in the cabinet, or in the senate, or in the boudoir, have prostituted the patronage of his office and given an embassy or a vice-royalty to the least worthy candidate; he may have bartered crown patronage for parliamentary support without decency and without shame. The statement of this, with or without comment, is as severely punishable by our law, as if the whole had been the fabrication of a wicked and spiteful imagination. Upon the trial, no evidence can be given of the truth; in addressing the jury, the judge must declare

that true or false the publication is alike criminal; even after the conviction, nothing respecting the truth can be urged in mitigation of punishment, as if the additional circumstance of having falsely charged those offences made the crime of publishing the charge no blacker. Again, the whole costs of the defence fall upon the party although he is acquitted, and ought never to have been tried. The government has the power of putting any writer or printer on his trial without a tittle of evidence against him, even without his ever having published any thing at all; and he may be prosecuted over and over again until the expence of his defence have worked his entire ruin. Mr. Perry and Mr. Lambert were punished for saying that George III.'s successor, coming after his reign, would have a fine opportunity of gaining popularity by the contrast which he had it in his power to display with the policy of the last half century. To call this libellous was absurd enough; but if neither Mr. Perry had been the proprietor, nor Mr. Lambert the publisher of the Morning Chronicle, or indeed of any paper at all, they would have equally been exposed to prosecution, and equally had to pay L.100 or L.150 in defending themselves. Further, a prosecution may be instituted against a publication which no twelve tradesmen, or farmers, or yeomen, in any district can be found to pronounce libellous; and the crown may have a jury of a higher rank in society, whose feelings are more tender on the subject, and whose leanings are all to the side of power, and all against the free discussion of the press.

As regards private libels, the case is fully worse. The party slandered may bring an action, but if the

words are true, he can recover no damages, and yet their truth may be no defence. As, for example, if a woman early in life had made a slip, of which repenting she had for forty years after led a blameless life, and become the respected mother of a family,—the truth here is rather an aggravation than an extenuation of the offence of disclosing this early accident for the sake of revenge, possibly because her virtue had now held out against the attempts of some seducer; yet this circumstance of the truth is a complete bar to the action. Then, in prosecuting, there is the difficulty of an opposite kind; for here the truth is wholly immaterial, and therefore whoever prosecutes, at least by Indictment, appears to admit the truth of the charge in the libel. If the prosecution is by Criminal Information, the prosecutor's oath must deny the charge,—but the defendant can give no evidence of the truth at the trial, however easily he could prove it, and in shewing cause against the Rule he can obtain none but voluntary affidavits: so that this proceeding is a very imperfect vindication of character; as all the charges may be true and capable of proof, and yet the evidence is excluded. There remains, indeed, the Action for Damages. But whoever has been engaged in any such proceedings, either as a party bringing the suit, or as advising and managing it, is well aware how unsatisfactory a remedy it affords. There is nothing upon which greater mistakes are committed; for men are wont to say that it effectually vindicates the plaintiff's reputation by defying the calumniator to prove his charge. But it in truth only shews that the charge cannot be proved, while it may yet be quite true, though the

evidence of it rests with the guilty party, or between the guilty parties if there be more than one. Suppose, for instance, an imputation, one of the most frequent of all, against a female of having violated her chastity, or against a man of having seduced a female; the charge may be quite true, and yet no one but the parties may be able to prove it; nay, there may be abundance of proof, but they only may know how to get at it; or again, the witnesses may be so entirely under their controul, that the defendant having no means of previously examining them, never could bring them into court in the dark as to their testimony, and consequently never could be advised in the dark to plead a justification. The like may be said of almost all acts of official delinquency, which can only be known in their details to the actors and their accomplices or dependants. How could any defendant, after denouncing these upon strong moral evidence, or at least on very grave suspicion, venture to plead any thing like a justification, when he must be wholly unable to marshal his evidence, or even to ascertain the particulars of the transaction? Then suppose individual parties charged in a libel with the private delinquency, or men in office with the malversation, their bringing an action really proves nothing as to their innocence—it only proves that the offence may have been committed, or it may not; but that the evidence of it is inaccessible, lying within the breast of the guilty parties, or their accomplices, or their dependants. Now it is of the nature of all delinquency, public or private, to shun the light; consequently, there are very few things of which any one can be accused, that do not come within

the description of the cases from which the examples now given to illustrate the argument have been chosen. Hence it is that the plea of justification is so seldom pleaded; but hence it also is, as professional men know, men who do not merely look to the theory of our jurisprudence, but are well conversant in the practice of the law, that the remedy for injuries to reputation, by way of action, is so unsatisfactory, as to be rarely recommended to those who have suffered the injury. Even in the intercourse of common life, there are many things, many breaches of decorum and even of morality, which no one who lives in society has the least doubt of, and which nevertheless every one feels to be incapable of proof. Every now and then some one charged, and known to be most justly charged, with those offences, has the courage to bring an action, which all the world knows can have but one result. The defendant cannot justify; the verdict is a matter of course; the inference drawn from it universally by those who know nothing of the parties or the matter, and whose good opinion is not worth having, is, that the charge is groundless, and has been courageously met; the inference equally universally drawn by all who know the parties, all whose opinion forms their reputation, is, that they are guilty, and have not shewn their innocence, but displayed a safe and easy effrontery by the proceedings.

To these considerations, which tend so fully to discredit the remedy by action, is to be added this other, —that the defendant may plead a justification, which does not cover the whole matter in the libel or in the declaration, or he may plead one which he can only

partially prove. Then the injured, that is the slandered party, is worse off than ever; for the part not justified or not proved may be the worst of the whole, and it may be utterly false, and yet, be the event of the trial what it may, and the verdict ever so secure, the party is sure to be believed guilty of the whole matter.

Nay, even if no mischance befalls him in the suit, and he recovers damages, every one knows how very rarely a jury estimates the injury to reputation and to feelings otherwise than by the most cold and imperfect rules—with what a scanty measure the damages are stingily meted out. In different places the standard varies; in the provinces, where, however, the slander has always a greater effect, the damages awarded, even in very grave cases, are ridiculously small; even in London they are seldom considerable, unless some unexpected accident occurs to inflame them. Now, however frequent the topic may be, that the action is not brought for gain, and that the damages are an object of contempt with the plaintiff, yet every one knows that they are the very reverse of being undervalued, and most justly; for, whatever the plaintiff's counsel may say, he never fails to urge the amount of damages as not merely the measure of his client's injury, but the value of his reputation; and if a few pounds or shillings only be given, the defendant leaves the court with the cry, in which all the public joins, that his adversary's character is worth no more; nay, for years the slandered party will hear the value at which a jury has assessed his character quoted maliciously against him, as often as he or his connexions happen to be involved in any personal altercation.

So numerous and so serious being the difficultics of an action, that the remedy by Information is very generally preferred; for it is prompt, being accessible immediately, inasmuch as the affidavit by which the slandered party denies the truth of the imputation cast on him, is the very first step of the proceeding; and that affidavit, to which he may add the oaths of others, in case the matter lies within their knowledge as well as his own, affords a certain degree of proof that the accusations are unfounded. When this, however, is said, all is said that can be urged in favour of this proceeding; for the witnesses swear without any cross-examination; they swear unseen by the court; and they may select only those things which they can safely deny, leaving much untouched and more unexplained. The defence of an action is, as we have seen, in the great majority of instances, a mere name; nevertheless, in some cases the proof may be forthcoming, if the defendant can be aided by the process of the court to compel witnesses; and in others, witnesses who refuse to volunteer their testimony by swearing an affidavit, which every one knows they cannot be compelled to make, would have no objection to communicate privately with the party, so that he might safely examine them, when he seemed to force them into the witness-box by a subpœna. 'It follows that no vindication of character can be competent which does not unite the merits of the two proceedings, by Criminal Information and by Action—enabling the party and his accomplices or dependants, to swear; defying the defendant to the proof; and above all, exposing the plaintiff's witnesses, if he have any, to cross-examination.

An additional reason exists for prefering the criminal proceeding, or at least for making punishment a part of the result. If damages only are the object, the slanderer may conceal himself, and pay some tool, some man of straw, whom he sets up to publish his calumnies, and engages to save harmless from all costs and charges. It is always far more difficult to find a person who will go to prison for his employer. Now, one great object of the Libel Law should be to bring forward the real offender; this is indeed distinctly included in and implied by the statement made in the outset of this discourse, as to the proper aim and end of that law.

The present frame of our jurisprudence in this particular is singularly defective. A slanderer may invent a false tale respecting some transaction to some part of which he was a party or a witness, and may get a publisher to disseminate it widely. The action being brought against the latter, the publisher, he who knows nothing at all of the matter, is nowise injured by being an incompetent witness; but he produces the real party, the writer of the lie, to swear for him; and it is hardly possible to defeat this conspiracy—the mouth of the other party, the plaintiff, who has been slandered, being of course closed. The two parties thus contend upon most unfair terms; and the right of proving the truth being unrestricted, the propagator of the falsehood has the same privilege of pleading a justification with the inventor of it; the real party to the suit appears, not as defendant, but as witness; and of the two formal parties, neither of whom can be heard, one only is real, and he has the greatest interest in being heard, whilst the

other is wholly indifferent whether he be heard or not, having nothing to communicate.

There remains one great defect in our Libel Law, which, though not confined to this branch of criminal jurisprudence, is nevertheless of more serious injury here than elsewhere,—that strange anomaly by which the jurisprudence of England is distinguished, and very discreditably, from that of every other country,—the leaving it to private individuals to institute prosecutions for the punishment of crimes. Whether any offence, however grave, shall be severely punished or altogether escape with impunity, depends upon the feelings, or the caprice, or the indolence, or the activity, or the disinterestedness, or the sordid feelings, of unknown and irresponsible individuals. The contrast is astonishing between the severity of the penalties denounced against offences, and the utter relaxation of the law for enforcing these penal sanctions. After providing by a series of the most rigorous enactments the most sanguinary punishments, the sword of justice drops from the lawyer's hand, and not a single precaution is taken to prevent the criminal's escape and secure the enforcement of any one of those provisions. Within a few months of each other, two capital crimes were committed—a murder in the face of day, (which might possibly have been found to be only an aggravated manslaughter,) by one patrician upon another—and an extensive forgery by a wealthy tradesman. In both cases parties were bound over to prosecute, as it is most inaccurately called, in reality to give evidence as witnesses; in both they forfeited their recognizances; and in both the culprits escaped.

The want of a Public Prosecutor is peculiarly felt in prosecutions for libel. The publication most offensive to decorum, most injurious to the peace of society, will never be visited with punishment, as long as it is left with private parties to institute criminal proceedings. Women of delicate feelings, men of weak nerves, persons who because of their invincible repugnance to adopt proceedings of a public kind for the punishment of those that have violated the privacy of domestic life, are the more fit objects for the law's protection, and the less likely to have committed the things laid to their charge, are surely of all others the most unfit to be entrusted with the functions of public accuser, especially in cases where their own admitted weaknesses are in question, or they are charged with immoralities of which they are quite incapable. The impunity of the slanderous press is effectually secured by this cardinal defect in our system of criminal jurisprudence—although it must be admitted, that the exercise of a public prosecutor's functions, in cases of libel o private character, would be attended in many cases with extreme difficulty, and that it would always require a very nice and delicate hand to discharge his duties.

3. A careful consideration of the true objects of a good Libel Law, and of the defects which prevail in our own, brings us easily to the remaining and most important head of discourse,—the remedy required. And first of all we may very briefly dispose of some projects often propounded by persons who have had little practical acquaintance with the subject, and are not even much conversant with the discussion of it.

The necessity of defining what a libel is, has often been

urged; but the impossibility of framing any such definition is at once perceived when the attempt is made; and it exists in the very nature of the thing. No definition of cheating, of cruelty, of conspiracy, can ever be given in any particularity of detail; and to contrive one which should meet all cases of libel would be absolutely impossible. The ill success which has attended the only limitation fixed, the only criterion established of libel or no libel—has not at all tended to encourage any reflecting or experienced person in the pursuit of definitions. Slander is only actionable if it imputes an indictable offence. What is the consequence of a line thus drawn, and drawn to all appearance, upon a sufficiently plain and precise principle—viz. on the only principle that has ever been propounded in discussing the question of definitions? The consequence has been a complete failure; the line excludes what it should include, and *vice versâ;* the definition has every fault that a definition can have; words are actionable which ought not to be so, as, "He committed an assault"—while no action lies for words which impute the most serious offences, as, "He committed incest and adultery" —or which tend to dishonour—as, "He is a liar, a coward, and a scoundrel."

Another proposal is to make the truth in every case a defence. But independent of the objection already stated to this rule in the case of private libels, even public libels may be so conceived as to be quite true in all their statements of fact, and yet be most dangerous to the peace and safety of the community. A perfectly well-grounded charge may be brought against the Government at a moment of public excitement, and accompanied with

furious commentary tending to produce revolt. The passions of the multitude may be roused at a moment of public danger, from famine or invasion, by statements wholly consistent with the truth—the making of which can do nothing but harm—the suppression of which is the duty of every good citizen. The troops may be appealed to by details quite true, yet brought forward at such a moment, and urged with such invective, as may excite a dangerous mutiny. The slaves in a colony may be excited to insurrection by a statement much under the truth, of their grievances, and of the crimes by which they were carried into slavery and have been kept in it,—of their natural and imprescriptible right to freedom,—accompanied, for instance with the recital of Dr. Johnson's celebrated toast, given at Oxford, at the table of the Head of a House there—"a speedy insurrection of the negroes in Jamaica, and success to it." So on the other hand, many falsehoods may be published, and even published with a malicious intention, and yet their tendency being innocuous, this will not constitute a libel. The mere truth or falsehood, then, of any matter published, is not a criterion of the innocence or guilt of the publication.

There are other reformers of the Libel Law who have considered the abolition of the *ex officio* power to prosecute, as a remedy for all defects. That it would operate a very imperfect relief, however, and would leave much of the mischief untouched even as regards public libels, must be admitted. But we may go a great deal further, and question its being any advantage at all. That it should be placed under wholesome restriction, is very

certain. But the evils arising from the want of a public prosecutor who shall institute proceedings, to preserve the purity of the press and check its licentiousness, have been already shown under the second head of this Discourse.

An attentive and dispassionate review of the subject, will show the true remedies for the existing defects, to be deduced from the statements already made respecting the objects in view and respecting those defects.

*First*, It seems necessary to place the power of filing *ex officio* informations under the controul of a grand jury. The law of Scotland is in some respects far better than our own, as regards the prosecution of offences. The Public Prosecutor, representing the Crown, is a known and responsible officer, to whose hands is entrusted the important duty of commencing and conducting all criminal proceedings. But in case he should pass over any offence committed, the party injured, or in case of murder or abduction the relations of the party, are allowed to to prosecute with the Public Prosecutor's concurrence, (concourse,) which is understood to be granted as of course. Instead of this power so confided to a single person being more liable to abuse in the case of political offences, it is perhaps less likely to be abused, because a grand jury has no individual responsibility, and may receive any bill preferred by an obscure person, as happened in the celebrated case of the Dean of St. Asaph, where a country attorney instituted proceedings, and the grand jury at once found the bill. It is not very likely that the Lord Advocate should ever put a person on his trial for a public libel or other political offence, unless the feeling among those classes from

whom petty jurymen are taken, happened to be favourably disposed towards the prosecution. Nevertheless, the additional controul of a grand jury would have the effect of preventing many vexatious proceedings, which may, as the law now stands, be instituted against any obnoxious person, both by the *ex officio* powers of the Attorney-general, and by the privileges of the Lord Advocate, merely to give annoyance, and cause expense without any regard to the probability of conviction. In the still more important department of libels against private persons, we have already had occasion to see how important the office of a prosecutor is for keeping the press pure. It would, however, be expedient to give the person libelled some share in the conduct of the proceedings, as an intervening party, although it might not be fit to give him a veto upon the instituting of them.

*Secondly*, In all cases whatever of prosecution, whether for public or private libel, whether by Criminal Information or Indictment, and in all Actions brought, the defendant should have a right, upon notice, to give the truth in evidence, subject to the next proposition; but then the truth should only go to the question of intention and tendency, as one element for resolving the question whether or not the defendant is guilty of the matter laid to his charge, and if guilty, what punishment he ought to receive, or what damages he ought to pay, and should in no case be of itself a conclusive defence by way of justification. The notice to be given by him of his intention to tender such evidence under the general issue, ought to be special, with leave to the prosecutor or plaintiff to require a fuller

particular under the authority of a judge at Chambers; and the evidence tendered at the trial must of course be confined within the limits of the notice.

*Thirdly*, It being of the utmost importance that anonymous slander should be discouraged, that the real author should by all means be reached, and that the conspiracy between the slanderer and the publisher already adverted to should be defeated, the right to give evidence of the truth of the matters published should be confined strictly, both in civil and criminal cases, to the real author; and in order further to prevent collusion and fraud, the mere statement or admission of a party that he is the author should be of no avail, but before the evidence is received, he ought to prove to the satisfaction of the Court that he is the real author. The consequences of this arrangement would be, that whoever lent himself to publish the libels of others, must be content to suffer punishment without the chance of escape or even mitigation from the matters being undeniably true; while the real author would have every inducement to come forward, and would have all the benefit of the truth to which he is entitled. Nor can it be said with any correctness, that this restriction upon the mere publisher is unfavourable to the party complaining of injury to his character; for it is no kind of imputation upon any one who offers to meet any charge of his traducer, that he prosecutes the hired publisher without defying him to produce his charges, since he gives him at the same time full power to escape by putting forward the true author of the slander.

*Fourthly*, It seems necessary, in order to make a prosecution satisfactory in the case of private libel, that

the prosecutor should have a right to the fine which the libeller shall be sentenced to pay. This will not only provide for the expense of the proceeding, but give the same compensation which is now obtained by an action, and which we have seen cannot always be safely left with a jury.

*Fifthly*, In order to make the proceeding by Information as perfect as it can be, there seems to be a necessity for exposing the witnesses who make affidavit to examination in Court. Now, nothing can be more easy than to require that in every case of a Criminal Information being granted, the defendant should have the right to call for the prosecutor's witnesses,—that is, for the production of all the persons who joined with the prosecutor in making the affidavits upon which the Rule was obtained, the defendant being at the same time compelled, whether he calls for the prosecutor's witnesses or not, to produce the persons who made affidavit against the Rule. It is evident that if this proceeding were attended with this production of the witnesses on both sides, it would become extremely satisfactory; for, while on the one hand, it exposes the conduct of the party libelled to a severe scrutiny, it protects him on the other hand from all false swearing as far as cross-examination can afford such security.

It may be a question whether the parties themselves should not possess the right of presenting themselves as witnesses, to undergo cross-examination. Nor does there seem to be any good reason against this permission, except that it is contrary to the general rules of our law of evidence, and that there is no good reason for confining such an examination of parties to the case

of libel. It is in no respect contrary to the principles on which the law of evidence should be grounded; and if the examination were extended to other cases, our jurisprudence would only be so much the more improved.

*Lastly*, The power of having public libels tried by a Special Jury, ought by all means to be taken away. There is no reason why private cases should not still be triable by special jury, at the option of either party. But there also is no good reason why libel, or indeed any other misdemeanour prosecuted by the public, should not be referred to the same tribunal which disposes of the lives and liberties of the subject in the case of all the graver offences known to the law.

# COMMERCE

AND

# MANUFACTURES,

AND

# THE ORDERS IN COUNCIL.

# INTRODUCTION.

ORDERS IN COUNCIL.—MR. STEPHEN'S CHARACTER.—MR. PERCEVAL'S DEATH.

THE continental system of Napoleon, the idea and even the outline of which he took from the policy of the Republic, and especially the Executive Directory, formed during the latter part of his life, that is, after the termination of the peace of Amiens, the favourite object of all his attempts. The extension of his territorial possessions, and his direct power by the annexation of some provinces to France; the union of the kingdom of Italy with his imperial crown; and the foundation of dependent monarchies under members of his family in Naples and in Spain; were no doubt valued by him as in themselves tending to his own aggrandizement and that of his adopted country: yet as long as Great Britain remained unsubdued and with resources little exhausted even by the expences of protracted wars, he knew that his security was exceedingly imperfect, and that a rallying point always must remain for whatever continental

powers should make an effort to regain independence. The projects of invasion, if they were ever seriously entertained, he soon laid aside. It cannot be doubted that the chief benefit he expected from them, as far as they regarded England, was the shock which the attempt, however unsuccessful, must give to the stability of a singularly artificial political and commercial system. Nor could he ever reckon upon more than a temporary success in Ireland, to which the views of the Directory had been directed in vain while affairs rendered such a plan far less likely to fail. The unbroken and unprecedented triumph of the British navy rendered all attempts at colonial warfare desperate, while the success of our cruizers in sweeping the seas made the combined maritime resources of France, Holland, and Spain alike ineffectual to embarrass our commerce or to protect their own. We had neither territory, nor dependencies, nor ships, nor trade, directly exposed to his power; and his whole supremacy, whether of direct power or indirect influence in Europe, seemed to arm him with no force which could be pointed immediately against the

Toto penitus divisos orbe Britannos.

Yet to injure us,—to reduce our resources,—to cripple our trade,—to weaken our authority in the world,—seemed necessary for his reputation, and even for his own security. Accordingly this was the point to which all his views were directed; and he never subjugated an enemy, or overpowered a rival, or seized upon a place, without endeavouring in the very first instance to make the event conducive towards the great design of injuring British trade.

There was evidently but one way in which this could be effected,—and that was to unite the continent in a general league against all commercial intercourse with our islands. If this could be rendered complete, our trade must be confined to our own dominions in Europe, the colonies, and India, and to those of our former subjects and kinsmen of America. A vast bulk of commerce would thus remain wholly beyond his reach; but a severe blow would also be struck by the entire loss of the European market.

In order, however, to render this scheme at all effectual, the European league must be complete. A single country having sea-ports, and communicating with other countries, raised the European blockade, because once our goods were introduced there, an entrepôt was obtained through which they might be sent all over the continent. Accordingly, wherever the French arms penetrated, although the sovereignty of the country might not be seized upon by France, she yet required the rigorous exclusion of all British ships and trade, as a condition of leaving the territory in possession of its former owners, even when these might be at peace or possibly in alliance with England, and whatever might have been the original title by which their dominions were acquired. This was carried so far, that in 1806, when Hanover was occupied by Prussia, Napoleon required the exclusion of our commerce with that Electorate, as an execution, or at least a consequence, of the treaty by which Prussia had previously bound herself to exclude it from her other territories. Nevertheless, such is the elasticity of trade, so extremely prone

are men to run almost any pecuniary risks for the sake of having the chance of pecuniary gain, and so difficult is it to watch an extended line of sea-coast, that British produce found its way into all parts of the continent although at prices somewhat raised by the obstructions thrown in its way. Napoleon was therefore determined to try the effect of more severe measures of exclusion; and when the premature and ill-concerted resistance of Prussia, in the autumn of 1806 (principally occasioned by her refusing implicit submission to the commercial measures of France) had speedily terminated in the complete overthrow of her military power, and had placed her entirely at the conqueror's mercy, the first use he made of his victory was to issue his famous Berlin decree, by which he professed to interdict all commerce, and even all intercourse, direct or indirect, with the British dominions. This interdict, so important in its consequences, bore date the 20th November 1806, at Berlin, which he had then occupied with his troops, having driven the King from his capital, after the entire overthrow of his army at the battle of Auerstadt. It declared the British islands in a state of blockade—all British subjects, wheresoever found, prisoners of war—all British goods lawful prize. It interdicted all correspondence with our dominions; prohibited all commerce in our produce; and excluded from all the ports of France, and of the countries under French controul, every vessel, of what nation soever, that had touched at a British port. The alleged ground of this measure was the distinction made by England, but not by her alone, or by any maritime state now for the first time, between enemy's property taken on

shore or at sea—(the former not being prize to the captors, unless it belonged to the hostile state; the latter being liable to capture, though belonging to private individuals) the similar distinction as to prisoners of war, who on shore are only made of persons taken with arms in their hands—and the extension of the right of blockade, which it was alleged we should restrict to places actually invested by an adequate force. The Berlin Decree was declared to be in force until England should agree to make the same law of capture applicable by sea and by land; and to abandon the right of declaring coasts or ports not actually invested, in a state of blockade.

It has been already observed that Napoleon borrowed from the Directory the outline of these commercial measures. The main provisions of the Berlin Decree are to be found in the Decrees of July 1796, and January 1798; the former of which professed to treat all neutrals in the same manner in which they should submit to be treated by England; the latter of which made all English goods or colonial produce liable to seizure wherever found, and all vessels to capture having any part of their cargo so composed—shut the French ports to every vessel that had touched at any British port—and even went to the barbarous extremity, not imitated by Napoleon, of denouncing death to all neutral seamen found on board of English ships.

Although some parts of the Berlin Decree were mere angry menaces, which France had no power whatever to execute, as the blockade of our whole coast, yet there were parts which she could carry into

execution, at least to such an extent as must occasion great temporary embarrassment to the nations of the continent, and some interruption to our commerce. The seizure of all British produce, and the exclusion of all vessels that had touched at a British port, were the most formidable parts of the measure; and against these provisions the trading classes were urgent in their remonstrances. Napoleon sternly answered that he would not yield a hair's-breadth—that the utmost commercial distress must be undergone, if necessary to make England feel the weight of his hostility—and that the continent must be prepared for returning to the barter of the fourth century rather than yield to our pretensions, and suffer our commerce to escape his vengeance.

All men of sense and foresight saw plainly that this system never could be completely successful, and that by far the wisest course for England to pursue would be that of leaving France and the neutral states, especially America, to fight it out amongst themselves, secure that the result must be favourable to our trade, as long as our goods were in universal demand, and could no where else be obtained. The thing most to be dreaded was any retaliating measures on our part, since by these we must both increase the obstructions raised to our commerce by the attempts of France, in which, without the help of our prohibitions, enforced by our navy, she never could succeed; and also bring on a contention, possibly a rupture, with neutral powers, on whose aid as carriers we entirely depended, as long as the continent could not be approached by our own vessels. But such were not the views of men in power,

of either party. The Whigs were in office when the Berlin Decree of November 1806 arrived in this country; and so little time was given for deliberation, before a course fraught with mischief of the greatest magnitude was resolved upon, that on the 7th of January following, the first of those fatal measures was announced, since so well known under the name of the Orders in Council. This first and Whig Order declared, that the Berlin Decree authorised England to blockade all the French dominions, to forbid any neutral power from entering our ports which had touched at any port of France or her dependencies, and justified us in capturing all her produce; but that we were unwilling to inflict such injuries on neutral nations. There never perhaps was a more absurd, not to say false statement in any instrument of state. The right thus pompously asserted is that of self-destruction, and the reason given for not exercising it, is the fear of injuring a neighbour. It is as if a man were to say to his adversary, "You have thrown a rocket at my house and my neighbour's, which from your great distance fell short of both buildings—therefore I have a full right to burn my own dwelling, but I will not, for fear I should set fire to the next house." The Order then states, that self-defence though not requiring complete retaliation, yet calls for something of the kind—in other words,—that though the duty of self-defence does not require the act of entire self-destruction, it yet calls for a partial self-destruction—and then it declares that for the purpose of retaliating upon the enemy the "evils of his own injustice," no vessel shall trade from one enemy's port to another, or from one port to

another of a French ally's coast shut against English vessels; so that the only chance our goods had of being spread over the continent being by getting them smuggled into some port less watched by France than the rest, and then their being freely conveyed from thence in all directions, the wisdom of the Whig cabinet, then flushed with Napoleon's successes into a state of most belligerent excitement against him, induced them to institute a blockade against our own commerce, by forbidding any one to carry British manufactures from place to place of the continent. The only chance we had of sending our goods any where, was getting them in somewhere, and then having them freely distributed every where. "No, said the ministers of 1807, let them be stopped where they are landed, and let no American think of carrying them elsewhere. Let them lie and rot in the warehouses of Pola, and Trieste, and Ancona, and Cadiz. But if any American or Sicilian presume to carry them on to their final destination, at Marseilles, or Bordeaux, or Nantz, let him be seized and condemned for violating the blockade instituted by the very effectual London Decree of England in aid of the empty Berlin Decree of France, both Decrees alike levelled at the existence of the British commerce, though levelled with very different aim."—It is farther to be remarked, that there existed no right whatever in England to issue any such decree against neutral states, merely because France had violated neutral rights. If time had been given for seeing whether or not America and other neutrals would submit to the Berlin Decree, something might have been said in behalf of our order. But it was issued 7th January,

1807, the Berlin Decree having been dated 20th November 1806—consequently it was physically impossible that we should then know what course America intended to pursue with respect to the French invasion of her rights. To every fundamental objection afterwards urged against the other Orders in Council issued at the close of the same year by the Tory Ministers, is the Whig Order of January 1807 completely exposed. It is equally a violation of neutral rights; tends equally to create a misunderstanding with America; operates equally in the wrong direction, namely, to the injury of our own commerce; and has equally the preposterous effect of assisting Napoleon in carrying into execution against us those measures which, without our own help, must in his hands be nearly, if not altogether, inoperative.

Accordingly, although it suited the views of party to forget that Order, and only to attack those of Mr. Perceval, which were framed on the very same principles, yet the Americans never made the least distinction between the two; and Mr. Brougham, while contending against the system on behalf of the English merchants and manufacturers at the bar of the House of Commons in 1808, objected in the very same terms to both, and always treated the preamble of the Whig Order, which stated a measure of vigour against ourselves enforcing the evils of Napoleon's hostility towards our commerce, to be retorting those evils on himself, as the leading absurdity of the whole system. It must be at the same time added, that when subsequent measures displayed more fully the absurd impolicy of their own act, the Whig party did eminently useful service by

their strenuous opposition to the extended system of impolicy and injustice. To these ulterior measures it is now necessary that we should advert, but first something may be said of their author.

Mr. Stephen was a person of great natural talents, which, if accidental circumstances had permitted him fully to cultivate, and early enough to bring into play upon the best scene of political exertion, the House of Commons, would have placed him high in the first rank of English orators. For he had in an eminent degree that strenuous firmness of purpose, and glowing ardour of soul, which lies at the root of all eloquence; he was gifted with great industry, a retentive memory, and ingenuity which was rather apt to err by excess than by defect. His imagination was, besides, lively and powerful; little certainly under the chastening discipline of severe taste, but often enabling him to embody his own feelings and recollections with great distinctness of outline and strength of colouring. He enjoyed, moreover, great natural strength of constitution, and had as much courage as falls to the lot of most men. But having passed the most active part of his life in one of the West Indian colonies, where he followed the profession of a barrister, and having after his return addicted himself to the practice of a Court which affords no scope at all for oratorical display,* it happened to him, as it has to many other men of natural genius for rhetorical pursuits, that he neither gained the correct taste which the habit of frequenting refined society, and above all, addressing a refined auditory, can alone bestow, nor ac-

* The Prize Appeal Court in the Privy Council.

quired the power of condensation which is sure to be lost altogether by those who address hearers compelled to listen, like judges and juries, instead of having to retain them by closeness of reasoning, or felicity of illustration. It thus came to pass, that when he entered Parliament, although he could by no means be said to have failed, but on the contrary at first, and when kept under some restraint, he must be confessed to have had considerable success, yet he was, generally speaking, a third-rate debater, because of his want of the tact, the nice sense of what captivates such an audience, how far to press a subject, how much fancy to display,—all so necessary for an acceptable speaker and powerful debater, one who is listened to by the hearers as a pleasure, not as a duty—for the hearer's own gratification, and not for the importance of the subject handled—one in short who must address and win the tribute of attention from a volunteer audience like the House of Commons, and not merely receive the fixed dole of a hearing from the compulsory attention of the Bench. There was another circumstance connected with Mr. Stephen's nature, which exceedingly lessened his influence, and indeed incalculably lowered his merit as a speaker. He was of a vehement, and even violent temper; a temper too, not like that of merely irascible men prone to sudden fits of anger or excitement, but connected also with a peculiarly sanguine disposition; and as he thus saw objects of the size and in the colours presented by this medium, so he never could imagine that they wore a different aspect to other eyes, and exerted comparatively little interest in other bosoms. Hence he was apt to proceed with more and more animation, with increasing

fervour, while his hearers had become calm and cold. Nor could anything tend more to alienate an audience like the Commons, or indeed to lessen the real value of his speeches. It must have struck all who heard him when, early in 1808, he entered Parliament under the auspices of Mr. Perceval, that whatever defects he had, arose entirely from accidental circumstances, and not at all from intrinsic imperfections; nor could any one doubt that his late entrance upon Parliamentary life, and his vehemence of temperament, alone kept him from the front rank of debaters, if not of eloquence itself.

With Mr. Perceval, his friendship had been long and intimate. To this the similarity of their religious character mainly contributed; for Mr. Stephen was a distinguished member of the Evangelical Party to which the minister manifestly leant without belonging to it; and he was one whose pious sentiments and devotional habits occupied a very marked place in his whole scheme of life. No man has, however, a right to question, be it ever so slightly, his perfect sincerity. To this his blameless life bore the most irrefragable testimony. A warm and steady friend—a man of the strictest integrity and nicest sense of both honour and justice—in all the relations of private society wholly without a stain—though envy might well find whereon to perch, malice itself in the exasperating discords of religious and civil controversy never could descry a spot on which to fasten. Let us add the bright praise, and which sets at nought all lesser defects of mere taste, had he lived to read these latter lines, he would infinitely rather have had this sketch stained with all the darker shades of its critical matter, than been exalted, without these latter lines, to the level of Demos-

thenes or of Chatham, praised as the first of orators, or followed as the most brilliant of statesmen.

His opinions upon political questions were clear and decided, taken up with the boldness—felt with the ardour—asserted with the determination—which marked his zealous and uncompromising spirit. Of all subjects, that of the Slave Trade and Slavery most engrossed his mind. His experience in the West Indies, his religious feelings, and his near connexion with Mr. Wilberforce, whose sister he married, all contributed to give this great question a peculiarly sacred aspect in his eyes; nor could he either avoid mixing it up with almost all other discussions, or prevent his views of its various relations from influencing his sentiments on other matters of political discussion. His first publication was the "*Crisis of the Sugar Colonies*," a striking and animated picture of the mischiefs of Slavery, and a strong recommendation of the cause of St. Domingo to the favour of this country. Thus the conduct of Napoleon towards St. Domingo plainly sowed in his mind the seeds of that hatred which he bore to the Emperor and all his plans; and to this source may accordingly be traced, not merely his "*Life of Toussaint*," written partly to gain favour for the negroes, and partly to stimulate the public indignation against France during the alarms of invasion which accompanied the renewal of hostilities in 1803; but also the "*Opportunity*," in which he very prematurely urged the policy of forming an alliance with the new Black Republic, and soon afterwards his able and eloquent pamphlet on the "*Dangers of the Country*." This appeared early in

1807; and contains, among other things of undoubted excellence, a signal proof of his enthusiasm outstripping his better judgment,—for he deliberately traces the misfortunes of Europe in the late wars against France to the special interposition of Providence, because of England repeatedly rejecting the measure of Slave Trade Abolition;—forgetful that although those calamities indirectly and consequentially injured England, they fell far more heavily, and in the very first instance, upon the continental states which had neither a Colony, nor a Slave, nor a Slave trading vessel in their possession, which, therefore could not have committed the offence that called down the penalty, and which were subjugated by one of the greatest Slave holders and Slave traders in the world, France, the only gainer by all these visitations of Divine vengeance. It was further remarked, that even as to England his theory failed very soon after the work was published. For hardly had the Abolition been carried, than its authors were driven from power; and the Fifth Coalition was dissolved by the defeat of Russia at the great battle of Friedland.

Baffled, therefore, in his speculations respecting the cause of Napoleon's successes, he betook himself to devising means of counteracting his influence as used against this country. In consequence of his jealous hostility towards Napoleon, and also from his intimate acquaintance with the frauds practised by neutrals in the court of Prize Appeal, where he had the leading practice until he became a Master in Chancery, he had early turned his attention to the French commercial measures, and upon his friend Mr. Per-

ceval coming to the head of affairs, he obtained his assent to a far more complete system of retaliation than the Whig Order in Council of January 1807. He it was who first found and afterwards zealously supported the famous Orders of November in that year, which brought the mercantile conflict with France, and unhappily with America also, to a crisis. These Orders were ushered in by a Tract upon the general subject of the conduct pursued by neutrals, entitled "*War in Disguise, or the Frauds of the Neutral Flags;*" of all his works the most celebrated, the most justly admired, and a work certainly of extraordinary merit. The facts on which it dwelt were undeniably true, and as they appeared to shew a systematic evasion of belligerent rights by the shifts and contrivances of neutral traders, connived at, and indeed encouraged by their governments, it was no hard matter to influence the people of this country against such conduct, and make them believe that this was really hostility towards us and our interests under the mask of neutrality. The fallacy thus greedily swallowed by the nation's prejudices was very sincerely believed by the zealous and impetuous author, and the Ministers whom he counselled; and it is the prevailing fallacy which runs through the whole policy of the Orders in Council, from that of the Whigs in January to that of the Tories in November 1807. This fallacy consists in supposing that the trade driven by the neutrals with our enemies, because it benefits the latter, is therefore hurtful to ourselves, although it perhaps benefits us tenfold; on which is engrafted another mistake, if indeed it be not rather the root of the whole error, that

of grudging the impossibility of our ever deriving advantage from the exchange of our goods without something of the benefit redounding to our enemies, customers, and consumers.

When in the train of this brilliant and captivating publication the Orders of November appeared, all men were struck with the magnitude of the design on which they were framed, and all reflecting men regarded them as calculated to execute the grand purpose of the first Decree. Their principle was indeed abundantly simple. Napoleon had said that no vessel should touch a British port and then enter a French one, or one under French controul. The Orders in Council said that no vessel whatever should enter any such port unless she had first touched at some port of Great Britain. Many other regulations opposed to neutrals were made in prosecution of this principle, and an *ad valorem* duty was levied upon their cargoes. Immediately after came forth Napoleon's Milan Decree, bearing date the 17th December 1807, enforcing more rigorously that of Berlin, and declaring all vessels lawful prize, which had submitted to the right of search claimed by England.

The first result of our general blockade of all Europe was the adoption in this country of a system most liable to every kind of abuse,—that of Licences issued to let certain vessels pass notwithstanding the Orders; and this was accompanied by a yet more abominable system of fabricated papers, which naturalized among the merchants and navigators of this country the worst practices of forgery and fraud. The next result was the American Embargo and Non-

Importation acts, operating a suspension of all commerce with the United States. The distress experienced by the trade and manufactures of this country was extreme. A series of hostile proceedings with America was begun,—and after much suffering endured, extreme ill-will engendered, many insults offered and resisted, this state of things ended in an open rupture, which lasted till the end of the war in Europe, led to the capture by the Americans of some British frigates, and was terminated by a most inglorious expedition to Washington, and a most unfortunate one to New Orleans,—leading to the injury of our national character in the one, and the tarnishing of our military fame in the other.

When the Orders in Council and the American Embargo first threatened British commerce with destruction, the merchants and manufacturers of London, Hull, Manchester and Liverpool, comprising all the industry of Yorkshire and Lancashire, and all the general trade which centres in the capital, petitioned Parliament against the obnoxious policy of the Orders, craved to be heard by their counsel, and tendered evidence of the injuries sustained by them from the operation of those Orders. Mr. Brougham was their counsel, and was heard at the Bar of both Houses, where he likewise adduced the evidence during several weeks in support of the petitions. The Ministry, however, triumphed over all the attempts then made to defeat the system; and it was not until four years after, in 1812, that, the general distress having gone on increasing, there was found any chance of obtaining a more favourable hearing. Both Mr. Brougham and Mr. Stephen were now mem-

bers of the House of Commons; and in March 1812, the subject was brought forward by the former. This motion was then negatived; but soon after Easter, he presented petitions from the same parties who had formerly been his clients; and on the motion of Lord Stanley,* on the 28th of April, the House agreed without a division to hear evidence in support of the petitions. The case was conducted every night for seven weeks by Mr. Brougham and Mr. Baring,† than whom it would not have been possible to find a more powerful coadjutor. His extensive possessions in America—his connexions both of family and commerce with that country —his former residence there—his vast mercantile knowledge derived from varied and long experience—his great general information, and the depth as well as precision of his understanding—would have rendered him a most formidable adversary of the system, even stript of all the weight which any cause that he espoused must derive from the name, and authority, and resources, of the first merchant in the world. The inquiry on the side of the petitions was wholly conducted by these two members, and each night presented new objections and new defeats to the Orders in Council, and new advantages to the opposition—by incidental debatings on petitions presented—by discussions arising on evidence tendered—by other matters broached occasionally in connexion with the main subject. The Government at first, conceiving that there was a clamour raised out of doors against their policy, and hoping that this would of itself subside, endeavoured to gain time and put off the hearing

* Now Earl of Derby. † Now Lord Ashburton.

of the evidence. But Messrs. Brougham and Baring kept steadily to their purpose, and insisted on calling in their witnesses at the earliest possible hour. They at length prevailed so far as to have it understood that the hearing should proceed daily at half-past four o'clock, and continue at the least till ten, by which means they generally kept it on foot till a much later hour, all but those who took a peculiar interest in the subject having earlier left the house.

On the 11th of May, a most lamentable catastrophe deprived the world of the Minister who was the chief stay of Mr. Stephen's system. Mr. Perceval was walking arm in arm with that gentleman from Downing Street to the House, when he was met by a messenger whom the Secretary of the Treasury had dispatched to hasten him, the opposition having refused to suspend the examination longer, as the hour appointed to begin had some time passed. Mr. Perceval, with his wonted activity, darted forward to obey the summons, and was shot as he entered the lobby of the House. It was remarked that had Mr. Stephen, who walked on his left, been still with him, he would have been most exposed to the blow of the assassin. At that moment the inquiry had been recommenced, and Mr. Brougham was examining a witness, when he thought he heard a noise as if a pistol had gone off in some one's pocket—such at least was the idea which instantaneously passed through his mind, but did not interrupt his interrogation. Presently there were seen several persons in the gallery running towards the doors; and before a minute more had passed, General Gascoigne rushed up the House, and announced that the Minister had been shot, and had fallen on the spot

dead. The House instantly adjourned. Examinations were taken of the wretch who had struck the blow, and he was speedily committed for trial by Mr. M. A. Taylor, who acted as a magistrate for Middlesex, where the murder was committed. On that day week, Bellingham, having been tried and convicted, was executed, to the eternal disgrace of the Court which tried him, and refused an application for delay, grounded on a representation that were time given, evidence of his insanity could be obtained from Liverpool, where he had resided and was known. It cannot with any truth be said that the popular ferment, which so astonishing and shocking an event occasioned, had at all subsided on the trial, the fourth day after the act was committed, and the day on which the Judge and Jury were called upon—calm in mind—inaccessible to all feelings—above all outward impressions—to administer strict and impartial justice.

The opponents of the Orders in Council refused peremptorily to suspend their proceedings, in consequence of this lamentable event. Indeed the suspension of all other business which it occasioned, was exceedingly favourable to the object of those who were anxious for an opportunity to produce their proofs and obtain a decision. A vast mass of evidence was thus brought forward, shewing incontestably the distressed state of trade and manufactures all over the country, and connecting this by clear indications with the operation of the impolitic system which had been resorted to for "protecting our commerce, and retorting on the enemy the evils of his own injustice." At length, on the 16th of June, Mr. Brougham brought forward his motion for an address to the Crown to recall the obnoxious Orders;

and the following was the speech which he delivered upon that occasion. The course of the Government was inexplicable. The absence of Mr. Stephen from his place, where he had attended every hour of the preceding inquiry, and taken a most active part in supporting the ministerial measure, plainly shewed that a determination had been come to which he could not approve. Yet if it was resolved to strike—if the system was abandoned—there seemed no intelligible reason why the leader of its adversaries should be heard to describe the mischiefs that had flowed from it, and to place its authors before the people as the cause of all they were enduring under it. This, however, was the plan resolved upon; and after Mr. Brougham had been heard in support of his motion, and Mr. Rose in defence of the system, and when Mr. Baring had followed, Lord Castlereagh, on the part of the Government, announced that the motion needed not be pressed to a division, because the Crown had been advised immediately to rescind the Orders. The effects produced by the numerous petitions—by the discussions to which these gave rise—by the meetings in different places—by the testimony of the witnesses,—were so apparent within the last fortnight, that there remained no doubt of the motion being carried, and hence the determination to which the Ministers deemed it prudent that they should come.

Mr. Stephen's absence on such an occasion was certainly not easily to be accounted for, unless upon the supposition that he could not have been in his place without expressing his dissatisfaction in terms so strong, possibly so contemptuous as might not suit the precarious position in which the Government now

were placed, deprived of Mr. Perceval, and opposed by Mr. Canning, as well as the Whig party. To this Government Mr. Stephen adhered, regarding it as the remnant of his friend Mr. Perceval's administration, and as regulated, generally speaking, by principles the same as his own. He never was accused, at any time, of unworthily sacrificing those principles for any consideration; and three years afterwards he gave a memorable proof of his public virtue, by at once abandoning the Ministry, and resigning his seat in Parliament, because they pursued a course which he disapproved, upon the great subject of Colonial Slavery. He retired into private life, abandoned all the political questions in which he took so warm an interest, gave up the public business in which he still had strength sufficient to bear a very active part, and relinquished without a struggle or a sigh all the advantages of promotion both for himself and his family, although agreeing with the Government in every other part of their policy, because on that which he believed conscientiously to be the most important of all their practical views, they differed from his own. It would indeed be well if we had now and then instances of so rare a virtue; and they who looked down upon this eminent and excellent person as not having answered the expectations formed of his parliamentary career, or sneered at his enthusiastic zeal for opinions in his mind of paramount importance, would have done well to respect at a distance merit which they could not hope to imitate—perhaps could not well comprehend—merit, beside which the lustre of the statesman's triumphs and the orator's fame grows pale.

# SPEECH

UPON THE PRESENT

# STATE OF COMMERCE AND MANUFACTURES,

AND

# THE ORDERS IN COUNCIL.

DELIVERED IN THE HOUSE OF COMMONS,

JUNE 16, 1812.

# SPEECH.

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Sir,—I rise to bring before the House a proposition regarding the subject which has recently occupied so large a share of our attention—the present state of Trade and Manufactures, and the sufferings of the people of England. And I am confident I shall not be accused of exaggeration when I say, that it is by far the most interesting and momentous topic which can at this crisis engage the attention of Parliament. After six weeks spent in the inquiry—after a mass of evidence unparalleled in extent has been collected—the time is at length arrived, when we are called upon for the result of our investigation, for our determination in behalf of the country, and our advice to the Crown upon the mighty interests which we have been examining. But while I dwell upon the importance of this subject, I am by no means disposed to follow the practice usual upon such occasions, and to magnify its extent or its difficulty. The question is indeed one of unexampled interest, but of extremely little intricacy. Its points are few in number—they lie within a narrow range—they are placed near the surface—and involved

in no obscurity or doubt. Its materials are only massive in outward appearance, and when viewed at a distance. There seems to be a huge body of details. This load of papers—these eight or nine hundred folios of evidence—together with the bulk of papers and petitions lying on your table, would naturally enough frighten a careless observer with the notion that the subject is vast and complicated. Yet I will venture to assert, that I shall not have proceeded many minutes, before I have convinced not only those who assisted in the labours of the Committee—not those merely who have read the result of the Inquiry on our minutes—but those who now for the first time give their attention to the question, and come here wholly ignorant of its merits, that there has seldom been a subject of a public nature brought before this House, through which the path was shorter and surer, or led to a decision more obvious and plain.

There is, however, Sir, one task which meets me in the outset, and one of so painful a nature, that I would fain recede from it. It is my severe duty this night to make you acquainted with the distresses of the people, and principally of the lower orders, that is to say, the most numerous and industrious classes of our countrymen. To handle the question without entering into these afflicting details, or to travel amongst them without the deepest uneasiness, would require an ingenuity or an insensibility which are equally foreign to my nature. For to whom could the scenes which we positively witnessed in the Committee be so distressing, as to those whose anxiety for the welfare of the lower orders impelled them to devote their days and nights to the labours of the Inquiry? And it is now my hard task to give those who were not there to see and hear, some idea of what passed before our very eyes—the strange and afflicting sight of respectable ancient men,

the pillars of the trade and credit of the country, coming forth to lament, not that they saw wasting away beneath the fatal policy of our Government the hard-earned fruits of their honest and industrious lives—not that they were approaching to old age stripped of the support which they had been providing for that season—but because they no longer had the means of saving from absolute want the thousands of unhappy persons dependent upon them for subsistence—because they had no longer wages to give the thousands, who were eager to work for any pittance to sustain life—because, having already exhausted their whole means, all the accumulations of their lives, in the charitable offices of employing those poor people, they were now brought to the brink of that dreadful alternative, either of leaving them to perish, or of shutting their ears to the wants of connexions that had still stronger claims. These are things which I cannot pass over; but I willingly delay entering upon them for some little time; and at present I should prefer calling your attention to more general circumstances, which less directly, though with equal force, prove the unexampled calamities of the times.

And here, Sir, I do not allude merely to the numerous petitions preferred to Parliament, setting forth the distresses of the country, and praying for a repeal of the Orders in Council. I will not dwell upon these, nor ground my inferences upon them. And yet I well might avail myself of such an argument on the present occasion. For if the system was adopted for the express purpose of relieving our trade and manufactures, what better proof of its inefficacy, than the loud and general complaints of our merchants and workmen against it? If the very ground and justification of those measures has always been the necessity of affording relief to the commerce and industry of the country,

what can be more in point, while they are urging the merits of the plan, than the fact, that Yorkshire, Lancashire, and Warwickshire, all the great districts of our manufactures, joined formerly in expressing their fears of the *relief* you were offering them; and now, after four years' trial of its virtues, loudly pray to be saved from such a remedy, imploring you for pity sake to abandon them to the hostility of their enemies, and spare them the merciless kindness of the protection under which they are groaning? Yet I will forego whatever support the cause may derive from the fact of these petitions, in order to dwell upon the more indirect and unexpected, and therefore wholly unsuspicious testimony, which it derives from other quarters. I would beseech the House to cast its eye abroad upon the various projects for obtaining relief, to which of late the people have in different parts of the country had recourse—the attempts and devices to which, in the restlessness of their sufferings, they have been resorting, with the vain hope of shifting or shaking off from them the load of calamity under which they labour. Some of those schemes, I know, are most inadequate to the object—some are nugatory and absurd—some are positively hurtful to them, and deserving of reprobation. But they all proceed from the feverish uneasiness, the impatience of rest, which forms an undoubted symptom of the prevailing malady. Take, for example, the disorders which in different districts have given rise to short-sighted attacks upon machinery and other private property. Of these it is impossible to speak without blame; but when we reflect on the misery which brought on this state of violence, it is hard to avoid mingling pity with our censure. Another remedy, as short-sighted, though unhappily perfectly legal, I have myself had occasion to see attempted in the course of my professional employment—I mean

the applications which numerous bodies of manufacturers have made to courts of justice, for enforcing one of the most impolitic laws on the statute-book, the act of Elizabeth, requiring magistrates to fix the rate of wages—a law which has been absurdly permitted to subsist, on the pretence that it was not likely to be acted upon, and which, as might have been expected, stands ready to promote mischief at the moment when it may be most dangerous, without the possibility of ever doing good. A third expedient has been thought of, in application to this House for the abolition of sinecure places, or the appropriation of their profits to the expenses of the war. Of this remedy I by no means think so lightly as some do; it would indeed only afford a trifling relief, but it would go far to prevent the recurrence of the evil, by diminishing the interest of many persons in the continuance of hostilities, and would disarm, I believe, some of the most warlike characters of the time.

But I would particularly entreat you to consider the numberless petitions from almost every part of the country which now crowd your table, against continuing the East India Company's monopoly. That some of those applications are founded in the most just and politic views of the subject, I am far from denying; that the great and once opulent city of Liverpool, for instance, the second in the empire, would derive material relief from that participation in the East India trade, to which it has undoubted right, cannot be doubted; and Glasgow, Bristol, and one or two other places, are in the same predicament. But is this the case with all the other towns, I might almost say villages, which have preferred the same prayer to us in equally urgent terms? Is it the case with any considerable proportion of them? What think you, Sir, of places demanding a share of this trade, which have

neither commerce nor manufactures? I will give you a specimen of others which have something to export, but not exactly of the quality best suited to those Eastern markets. One district has petitioned for a free exportation to the East Indies, which to my knowledge raises no earthly produce but black horned cattle. The Potteries have demanded permission to send freely their porcelain to China; and the ancient and respectable city of Newcastle, which grows nothing but pit coal, has earnestly entreated that it may be allowed to ship that useful article to supply the stoves and hot-houses of Calcutta. All these projects prove nothing less than the incompetence of their authors to find out a remedy for their sufferings; but they do most distinctly demonstrate how extensive and deep-seated the evil must be, and how acute the sufferings which seek relief from such strange devices. They remind one of the accounts which have been handed down to us of the great pestilence which once visited this city. Nothing in the story of that awful time is more affecting, than the picture which it presents of the vain efforts made to seek relief; miserable men might be seen rushing forth into streets, and wildly grasping the first passenger they met, to implore his help, as if by communicating the poison to others, they could restore health to their own veins, or life to its victims whom they had left stretched before it. In that dismal period there was no end of projects and nostrums for preventing or curing the disease, and numberless empirics every day started up with some new delusion, rapidly made fortunes of the hopes and terrors of the multitude, and then as speedily disappeared, or were themselves borne down by the general destroyer. Meanwhile the malady raged until its force was spent; the attempts to cure it were doubtless all baffled; but the eagerness with which men hailed each successive contrivance, proved too

plainly how vast was their terror, and how universal the suffering that prevailed.

So might I now argue, from the complaints and projects which assail us on every hand, how deeply seated and widely spread is the distress under which the people are suffering; but unhappily we have to encounter its details in many other shapes. Although it is not my intention to travel through the mass of evidence on your table, the particulars of which I may safely leave to my honourable friend,* who has so laudably devoted his time and abilities to this investigation. Let me only, Sir, remind the House of the general outline of the Inquiry. We have examined above a hundred witnesses, from more than thirty of the great manufacturing and mercantile districts. These men were chosen almost at random, from thousands whom we could have brought before you with less trouble than it required to make the selection; the difficulty was to keep back evidence, not to find it; for our desire to state the case was tempered by a natural anxiety to encroach as little as possible on the time of the House, and to expedite by all means the conclusion of an inquiry, upon the result of which so many interests hung in anxious suspense. In all this mass of evidence there was not a single witness who denied, or doubted—I beg your pardon, there was one—one solitary and remarkable exception, and none other even among those called in support of the system, who even hesitated in admitting the dreadful amount of the present distresses. Take, for example, one of our great staples, the Hardware, and look to Warwickshire, where it used to flourish. Birmingham and its neighbourhood, a district of thirteen miles round that centre, was formerly but one village, I

* Mr. Baring, now Lord Ashburton.

might say one continued workshop, peopled with about four hundred thousand of the most industrious and skilful of mankind. In what state do you now find that once busy hive of men? Silent, still, and desolate during half the week; during the rest of it miserably toiling at reduced wages, for a pittance scarcely sufficient to maintain animal life in the lowest state of comfort, and at all times swarming with unhappy persons, willing, anxious to work for their lives, but unable to find employment. He must have a stout heart within him who can view such a scene and not shudder. But even this is not all, matters are getting worse and worse; the manufacturers are waiting for your decision, and if that be against them they will instantly yield to their fate, and turn adrift the people whom they still, though inadequately, support with employment. Upon your vote of this night the destiny of thousands in that district alone depends; and I ask you before you give it to tell me what must become of those thousands, or of the country in which they shall be turned loose? I am aware that the language I use may be misinterpreted—it may be perverted into a threat; but I speak of incontrovertible facts from the evidence before you, when I affirm, that if you this night say "NO" to the petitions against the Orders in Council, you let loose upon the country thousands and thousands—I will not say of riotous, or disorderly, or seditious, or even discontented people—but only of hungry men who must either find food or perish. Look now to Yorkshire,—to the clothing country. The late Chancellor of the Exchequer, in the only conversation I had the honour of holding with him upon this question, was very confident that the case of the petitioners would fail in these districts; you have proved it, said he, as far as respects hardware, but, you will do nothing in the Woollen trade.

Sir, we have now gone through the case, and how stand the facts? It is still stronger with respect to the clothing than the hardware! It is more various in its features and more striking in the result, because the trade is more extensive, and employs both larger capitals and a more numerous people. One gentleman tells you that he has twenty, another twenty-five thousand pounds locked up in unsaleable, unprofitable stock, which load his warehouses. A third has about thirty, and a fourth no less than ninety thousand pounds thus disposed of. In the warehouses of one merchant there are eighty thousand pounds worth of Cottons, and in those of another at Liverpool from two to three thousand packages, chiefly Woollens and Cottons, valued on the lowest computation at two hundred thousand pounds, every article of which was destined for the American market, and can find no other vent. In the West Riding thousands have been thrown out of all employment—but this is nothing compared with the fearful apprehensions which are there entertained, if you this night refuse them relief. I pass lightly over this ground—but the fact is known that in that populous county, the applications to the parish officers have so alarmingly increased, that they have given repeated warnings to the master manufacturers, and I believe to the higher authorities, of their utter inability to relieve the increasing distress or to answer for its consequences. Among other circumstances which marked this part of the case, there was one peculiarly affecting to every one who heard it.—It had been proved that at Kidderminster, where the great Carpet manufacture is almost entirely destroyed, the wants of the poor became so pressing that they were forced to part with their little stock of furniture, which used to make their cottages in some degree comfortable, and even the clothes off their backs, to raise

food, until the pawnbrokers, having already loaded themselves with such deposits, refused to issue any more tickets. But at Sheffield, the same feature recurred in an heightened and still more striking form. The workmen in the Cutlery trade, unable to obtain any longer their usual market, from the master dealers and merchants or brokers refusing to purchase any more, were compelled to pawn their articles at a very low valuation, for money, and even for food and clothes —so that this extraordinary state of things arose—the pawnbrokers came into the London market with the goods, and there met the regular dealers, whom they were able greatly to undersell; in such wise as to supply in a considerable degree the London and other markets, to the extreme augmentation of the distresses already so severely pressing upon this branch of trade.

I might detain you, Sir, in an endless repetition of this same tale of misery, through its different shapes, were I to describe its varieties in the other districts to which the evidence applies—but I shall only refer to the Cotton trade; and that, not for the sake of stating that here too the same picture was presented of capital locked up—men of great nominal wealth living without income—trading, or seeming to trade, without profits—numberless workmen dismissed—those who remain employed earning only half or quarter wages—parish rates increasing—charitable supplies failing, from the reduced means of the upper classes, and the hourly augmented claims upon their bounty—and the never-ceasing feature of this case in all its parts, the impending necessity of instantaneously disbanding those who are only now retained in the hopes of your favourable decision; but I would draw your attention to the Cotton districts, merely to present one incidental circumstance which chanced to transpire respecting the distresses of the poor in those parts. The food which

now sustains them is reduced to the lowest kind, and of that there is not nearly a sufficient supply; bread, or even potatoes, are now out of the question; the luxuries of animal food, or even milk, they have long ceased to think of. Their looks, as well as their apparel, proclaim the sad change in their situation. One witness tells you, it is only necessary to look at their haggard faces, to be satisfied what they are suffering;—another says that persons who have recently returned, after an absence of some months from those parts, declare themselves shocked, and unable to recognise the people whom they had left. A gentleman largely concerned in the Cotton trade, to whose respectability ample testimony was borne by an honourable Baronet*—I cannot regularly name him—but in a question relating to the Cotton trade, it is natural to think of the house of Peel—that gentleman whose property in part consists of cottages and little pieces of ground let out to work-people, told us that lately he went to look after his rents—and when he entered those dwellings, and found them so miserably altered —so stript of their wonted furniture and other little comforts—and when he saw their inhabitants sitting down to a scanty dinner of oatmeal and water, their only meal in the four and twenty hours, he could not stand the sight, and came away unable to ask his rent. These feelings so honourable to him—so painful to us who partook of them—were not confined to that respectable witness. We had other sights to endure in that long and dismal inquiry. Masters came forward to tell us how unhappy it made them to have no more work to give their poor men, because all their money, and in some cases their credit too, was already gone in trying to support them. Some had involved them-

† Sir R. Peel.

selves in embarrassments for such pious purposes. One again, would describe his misery at turning off people whom he and his father had employed for many years. Another would say how he dreaded the coming round of Saturday, when he had to pay his hands their reduced wages, incapable of supporting them; how he kept out of their way on that day, and made his foreman pay them. While a third would say that he was afraid to see his people, because he had no longer the means of giving them work, and he knew that they would flock round him and implore to be employed at the lowest wages; for something wholly insufficient to feed them. Indeed, said one, our situation is greatly to be pitied; it is most distressing, and God only knows what will become of us, for it is most unhappy! These things, and a vast deal more—a vast deal which I will not attempt to go through, because I absolutely have not the heart to bear it, and I cannot do it—these things, and much more of the same melancholy description, may be seen in the minutes by such as did not attend the Committee; or as far as I have been able to represent them, they may be understood by those who have not heard the evidence. But there were things seen in the Committee which *cannot* be entered on its records; which were not spoken in words, and could not be written down; which I should in vain attempt to paint—which to form any idea of, you must have been present, and seen and heard. For I cannot describe to you the *manner* in which that affecting evidence was given. I cannot tell you with what tones and looks of distress it was accompanied. When the witnesses told the story of the sufferings of their workpeople and their own sufferings on their account, there was something in it which all the powers of acting could not even imitate; it was something which to feel as I now feel it, you must have seen it as I saw. The

men to whom I am now alluding belonged to the venerable Society of *Friends*—that amiable body of persons —the friends indeed of all that is most precious to man —the distinguished advocates of humanity, justice, and peace, and the patterns, as well as promoters of all the kindest charities of our nature. In *their* manner of testifying to this cause, there was something so simple and so touching, that it disarmed for a season the habitual indignation of the learned father of the system,* and seemed to thaw the cold calculations of its foster parent,† and his followers of the Board of Trade and Shipping Interest.‡

Sir, there is one circumstance in these melancholy details, which I have refrained from touching upon, because it seemed always to excite a peculiar degree of soreness: I mean the scarcity. We have often been taunted with this topic. We have been triumphantly asked, "What! is the scarcity too, owing to the Orders in Council?" Certainly we never thought of ascribing the wet summer, and the bad crop, to the present commercial system; but as for scarcity, I imagine there may be two kinds of it equally inconvenient to the people—a scarcity of food, and a scarcity of money to buy food with. All the witnesses whom we examined, were, without exception, asked this question, "Do you recollect the scarcity of 1800 or 1801?" Yes, was the answer, we do remember it; the dearth was then great, greater than at present, for there were two failing crops." But when we asked, whether the *distress* was as great, they flung up their hands and exclaimed —"O nothing like it, for then the people had plenty of work and full wages, whereas now the want of money meets the want of food." But further, Sir, have you

* Mr. Stephen. † Mr. Rose. ‡ Mr. Marryatt, &c.

not taken away the only remedy for this scarcity—the only relief to which we can look under a bad harvest—by closing the corn market of America? Did we not always say, in arguing upon these measures prospectively; "Where are you if a bad season comes, and there is a risk of a famine?" Well—unhappily this calamity has come, or approaches; the season is bad, and a famine stares us in the face, and now we say as we did before—"Where are you with your Orders in Council, and your American quarrel?" Why, Sir, to deny that those measures affect the scarcity, is as absurd as it would be to deny that our Jesuit's bark bill exasperated the misery of the French hospitals, for that the wretches there died of the ague and not of the bill—True, they died of the ague; but your murderous policy withheld from them that kindly herb which the providence that mysteriously inflicted the disease, mercifully bestowed for the relief of suffering humanity.

Before I quit this subject, let me entreat of the House to reflect how it bears upon the operations now carrying on in the Peninsula. Our armies there are fed from America; supplies to the amount of eight or nine millions a-year, are derived by them from thence; the embargo t'other day raised the price of flour in the Lisbon market above fifty per cent.; and when the news of this advance reached London, you heard from one witness that it occasioned in one morning, within his own knowledge, an export from this port of six thousand barrels of flour to supply the Portuguese market. Our operations in Spain and Portugal then depend upon the intercourse with America, and yet we madly persist in cutting that intercourse off! And is it indeed come to this? Are we never to lose sight of the Spanish war, except when America is concerned? To that contest what sacrifices have we not cheerfully made? To its paramount importance what perpetual tribute

have we not been paying? Has it not for years been the grand object of our hopes as of our efforts; the centre upon which all our politics, external and domestic, have hinged; the point which regulated every thing, from the negotiation of a public treaty to the arrangement of a Cabinet? Upon this contest what millions of money, what profusion of British blood have we not lavished, without ever stopping to count the cost, so self-evident have we ever deemed its advantages or rather its necessity to be? Yet now are we prepared to abandon it—to sacrifice all our hopes of its future profit—to throw away every advance that we have already made upon it, because it can no longer be prosecuted without involving us in the costs and dangers of—a reconciliation with America! For this war, for this same bootless war, we hesitate not to neglect every interest, every domestic tie—to cripple, oppress, starve, and grind down our own people; but all attention to it, all thought of it, suddenly leaves us the moment we ascertain that, in order to carry it on, we must abandon an unjust and ruinous quarrel with our kinsmen in America, and speedily relieve the unparalleled distresses of our own countrymen! Now, and now only, and for this reason and none other, we must give up for ever the cherished object of all our hopes, and no longer even dream of opposing any resistance to France upon the Continent of Europe—because by continuing to do so we should effectually defeat her machinations in America!

I have now, Sir, slightly and generally touched upon the heads of that case of deep distress which the evidence presents to our view; and I here stop to demand by what proofs this evidence has been met on the other side of the House? Not a question did the honourable gentlemen, who defend the system, venture to put by way of shaking the testimony, the clear and united

testimony to which I have been alluding; not a witness did they call on their part with the view of rebutting it, save only one, and to this one person's evidence it is necessary that I should call your attention, because from a particular circumstance it does so happen that it will not be found upon the minutes, and can therefore only be known to those who heard it, by whom, I well know, it never can be forgotten. This man, whom I will not name, having denied that any great distress prevailed among the lower orders in the manufacturing districts, it was fit that I should examine him a little more closely, seeing that he took upon himself to contradict the statement unanimously given by the most respectable merchants and manufacturers in the country but a few days before. I therefore asked whether he meant to say, that the artisans had the same wages as usual—And then was disclosed a scene the most revolting, the most disgusting, that it is possible to conceive, insomuch, indeed, that I was immediately afterwards implored by the gentlemen opposite to allow the evidence to be expunged, that it might not remain on our Journals to defile them. This man in substance told us, that the people had enough of wages—that they had no right to more—that when their wages were at the former rate they had three times as much as they ought to have!—What? did he really dare to say that the food which we had heard with sorrow described by the Lancashire witnesses was enough for the support of Englishmen, or that this miserable fare was all that the lower people of this country have a right to—the lower people to whom we owe all our national greatness? Did he venture to tell the representatives of that people—us who are sent here by them—who meet here only to consult for their interests—who only exist by and for them—that a short allowance of oatmeal and water (for such

is the fact) was the fit fare for them ?* Sir, this man sprung, I make no doubt, himself from the same class of the community, and at any rate now became by their labour, I am ashamed to say, one of the most affluent merchants in the city of London—this loyal man, for he began his evidence with an attack upon Jacobinism, and imputed the present distresses to the seditious machinations of partymen in this town, I rather think he meant to insinuate in this house—an attack which was also ordered to be expunged from the minutes—this very person standing in this Commons House of Parliament,—was shameless enough to insinuate that Englishmen must be fed low to keep them quiet; for he distinctly stated, that if you gave them more, you pampered them, or as he termed it, accustomed them to "luxuries irrelevant to their condition," and unhinged (as he phrased it in the jargon of his loyalty) "unhinged the frame of society." Sir, I yielded to the united entreaties of the gentlemen opposite, and for the sake of peace and the credit of our records, I consented to this disgraceful evidence being expunged. I now repent me of what I did; for I ought rather to have suffered the contamination to remain that it might record by what sort of witnesses this system is upheld, and according to what standard of popular rights and national happiness the defence of the system is framed. So much, however, for the first and last attempt which was made to impeach the facts brought forward by my witnesses.

Driven from this ground then, the right honourable gentleman retreats to his well known hold, and takes refuge in the Custom-house books—in the accounts of the Inspector General. I could have wished that he had brought that worthy and respectable officer him-

* See evidence of Mr. Wood, Mr. Bentley, &c.

self to the bar, because then we might have learned more accurately how those returns are made up; at present we have only a meagre note of a few lines describing the errors of this proceeding. But, with respect to these returns, I must in the first place observe, that we cannot in this stage of the inquiry rely on such evidence; the period is gone by when they might have been admissible. I shall explain myself in a moment upon this point. Accounts of exports and imports are resorted to, and most properly, in order to estimate the trade of the country when we have no better data; because those accounts give something like an approximation or rough guess at the state of the trade, and are in ordinary cases the only means we have of getting at a knowledge of the state of the country in point of commercial prosperity. But when we know from other sources of the most unquestioned authority every thing relating to this very point —when we have by actual inquiry learned in what state the commerce of the country is—when we have gone to the fountain head and seen the situation of things with our own eyes—it is idle and preposterous to run after lists of exports and imports, which are only the less perfect evidence—the indirect sign or symptom, and utterly out of time after we have examined the thing itself. We have seen that the people are starving all over the manufacturing districts, and the master manufacturers ruined; after this to produce an array of Custom-house figures, for the purpose of shewing whether manufactures are flourishing or not, is stark nonsense—such an array is superfluous, if it coincides with the better proofs; if it contradicts them, what man alive will listen to them for one moment? But I confess, Sir, that with me, at any stage of the inquiry, the credit of those Custom-house tables would be but small, after the account of them which appears in

evidence. The Inspector himself has stated in his Memorandum, that the method of making up the account of exports cannot be safely relied upon, in those instances where no payment is made; and by one of the returns it appears, that of twenty-seven millions, the average yearly value of exports, only ten millions are subject to duty on exportation, and that above eight millions neither pay duty, nor receive bounty or drawback; upon this sum at least, then, all the inaccuracy admitted in his minute must attach. But the evidence sufficiently explains on which side of the scale the error is likely to lie: There is, it would seem, a fellow-feeling between the gentlemen at the Custom-house, and their honoured masters at the Board of Trade; so that when the latter wish to make blazing statements of national prosperity, the former are ready to find the fuel. The managing clerk of one of the greatest mercantile houses in the city, tells you that he has known packages entered at L.5,000 which were not worth L.50; that those sums are entered at random, and cannot be at all relied upon. Other witnesses, particularly from Liverpool, confirm the same fact; and I know, as does my Right Honourable Friend, the Chancellor of the Exchequer, who was present, that the head of the same respectable house, a few days ago mentioned at an official conference with him, an instance of his own clerks being desired at the Custom-house to make a double entry of an article for export. After such facts as these, I say it is in vain to talk of Custom-house returns, even if they were contradicted in no respect by other evidence. After shewing one such flaw in them, I am absolved from all further trouble; I am not bound to follow their details and prove them false step by step; I have shewn enough to destroy their credit as documents, and with this irreparable damage on their face, I might here leave them. But strange to tell, after all the boasting of the gentlemen opposite—in spite of every contrivance to conceal

the real fact—and notwithstanding the essentially vicious mode of preparing those documents, it does so happen, that the falling off in our trade is too great even for the machinery of the Custom-house to sustain, or cover it over; and, with every effort to prevent its appearance, here it breaks out upon the face of the Custom-house papers themselves! At first, the methods I have spoken of were, no doubt, successful. When the defalcation was confined within certain limits, those methods might conceal it, and enable the Ministers to delude this House and the country, with details of our flourishing commerce. But that point has been passed, and no resources of official skill can any more suppress the melancholy truth, that the trade of the country has gone to decay. I hold in my hand the latest of these annual returns; and by its details we find that, comparing the whole amount of trade, both exports and imports (which is the only fair way of reckoning), in 1809, with its amount in 1811, there is a falling off in the latter year to the amount of no less than thirty-six millions—compared with 1810, the falling off is thirty-eight millions. If we confine our view only to the export of British manufactures, we find, that the falling off in 1811, as compared with either of the former years, (for they are nearly equal,) amounts to sixteen millions. And if we take in the export of foreign and colonial produce also, the falling off in 1811, compared with 1809, is twenty-four, and compared with 1810, no less than twenty-seven millions! Then, Sir, *we* need not object to the evidence afforded by those papers—they make most strongly in favour of *our* argument—they are evidence for *us*, if any evidence from such a quarter were wanted—and, whatever credit you may give to the testimony by which I have been impeaching their authenticity—how little soever you may be inclined to agree with me in doubting their accuracy, and in imputing exaggeration to them—I care not even if you

should wholly deny that any such flaws are to be found in their construction, and that any such abatement as I have described is to be made from their total results; I say, corrected or uncorrected, they prove my case—and I now rely on them, and hold them up in refutation of the Board of Trade, because they distinctly demonstrate an immense, an unparalleled diminution in our commerce, during the last eighteen months, and wholly coincide with both our evidence and our argument.

Of the positions advanced by the defenders of this system, one of the most noted is, that what we may have lost by its operation in one quarter, we have gained elsewhere—and that if the United States are no longer open to us, we have extended our trade in the other parts of America, and in some new European channels. To this argument, however, the returns which I have just been dwelling upon furnish a most triumphant, if it were not rather a melancholy, answer. For you will observe, Sir, that the mighty falling off, which those accounts exhibit, is upon the *whole* trade of the country—that it includes South America, Heligoland, the Baltic, and the Mediterranean, as well as the United States, and the dominions of France. If, therefore, upon the *whole* trade there has been this great defalcation, it is idle to talk of compensation and substitutes. The balance is struck—the deficiency is proved, after all the substitutes have been taken into the account, and credit has been given for them all. Every such allowance being fully made, there is still a total loss of trade in one year to the enormous amount of eight and thirty millions sterling. In like manner do these returns dispose of another famous argument—that the deficit of last year is only apparent; that it arises from making a comparison with 1810, the greatest year ever known; but that, compared with former years, there was no falling off at all. What now becomes of this assertion? The falling

off in the last year, as compared with 1810, being thirty-seven millions; it is thirty-five, as compared with 1809; and the deficit of exports of British manufactures is very nearly the same in both those comparisons. So much for the assertions of honourable gentlemen, and the real results of the Custom-house documents.

But let us attend a little more closely to the much-boasted substitutes for our American trade, which are to be found in the Spanish and Portuguese colonies in the South, and in our own settlements in the North. Almost all the witnesses who were examined knew something of these branches of commerce; and it was the constant practice on this side of the House to ask them, how far they had found relief from them? We generally began with inquiring, whether they had tried the South American markets? and there was always the same sort of answer: it was in most cases given with an air and manner sufficiently significant, independent of the words; there was generally a something which I should distinguish by a foreign expression, if I might be permitted to use it, where we have none at home that will convey the meaning—a sort of *naiveté*—an arch and humorous simplicity, which some now present must recollect. "Try the South American market?—Aye, that we have!" Or, "Know the Brazil trade?—We know it full well!" Some who had not personal experience of it, on being asked, "Whether they knew of any others who had tried the South American trade?" said, "They never wished to know any such people, or to have any thing to do with them." Most of them told us, that their disappointments were owing to Sir Home Popham's circular; and when we desired explanation, and demanded what profits they had turned on those adventures, whether twenty or only ten per cent.—they said they had always lost fifty or sixty, or more in the hundred, and never sold for prime

cost; frequently abandoning the goods to their fate, to save further charges in inquiring after them. Thus much appeared when *I* examined them; being myself no trader I could only question them generally and diffidently: accordingly, in my hands, they came off easily and safely enough—not so when the Vice-President of the Board of Trade took up the tale, which he never failed to do as soon as I laid it down. Then was seen all the closeness of a practical scrutineer; he took them to task as a real merchant, dealer and chapman; he spoke to them in their own language, and rated them in a manner so alarming to them—but to my honourable friend* and myself so amusing, that even now it is some merriment to recollect the dialogue:—"What!" he would say, "did you suffer a loss from the great South American market?" "Yes," was the answer, "a loss of fifty or sixty per cent." "Indeed," said the oracle of trade, sharply enough, "why, what sort of cargoes did you send?"—"Woollens," they would answer, "or flannels, or calicoes," as the case might be:—"Woollens," he would reply, "why, how *could* you think of such a thing?—Woollens!—no wonder that you lost."—So that all comes of their bad trading, and not of the bad market.—"While you are left to yourselves," says the right honourable gentleman, "no wonder that you make a losing speculation of it: What can your ordinary traders know of such fine markets as our South Sea bubble?—Come to us—repair to our Board of Trade—let *us* assort your cargoes—take a hint from my noble colleague in trade† and me, who carry on the commerce of the country—Come to the licence shop, and we will teach you the sure way—not perhaps of making a profit, for in these times that is not to be

* Mr. Baring.

† Lord Bathurst.

expected—but of reducing your losses, so that you shall only lose thirty or perhaps not more than twenty per cent. on each adventure!"—But grant that these merchants have really mistaken the right honourable gentleman's grand market, and have not exactly hit upon the articles that suit it; is it nothing against this new market that none of the real traders—nobody but Lord Bathurst, and his Board in Downing-street, can find out what things answer for it? Is certainty and steadiness no longer a desirable quality in trade? Are we to value commerce for its changeableness? Is variety now the great beauty of traffic? Is that line of employment for capital to be preferred which gives the most precarious returns, where the hazards are the greatest, and the obstacles the most difficult? as if the merchant was in search of amusement, or of that kind of unnatural delight which gamesters are said to take, in the risks and dangers of their unworthy occupation? Really, Sir, I speak as one ignorant of the subject, practically; I am not like the gentlemen of the Board, an adept in the mysteries of commerce; but from every thing I had heard, I did imagine that there was some merit in the old-fashioned qualities which were conceived foolishly I imagine, and ignorantly, to distinguish a good market, and that it was nothing the worse for being accessible—plain enough to enable traders to find out what suited it—large enough not to be soon glutted—regular enough to be confided in more years than one—and gainful enough to yield some little profit, and not a large loss upon each adventure.

Then comes the other great substitute, the market of British North America, and here the same proofs of a complete glut are to be found in every part of the evidence. At first, indeed, when the people of the United States did not go hand in hand with the Government, and unwillingly supported, or endeavoured to

evade the prohibitory laws, it was found easy to smuggle in our goods through Canada, to a considerable amount. But this outlet too we have now taken especial care to close up, by persisting in the same measures which rendered such a roundabout trade necessary, until we exasperated the people of the United States as well as their Government, and enabled the latter to take whatever steps might be requisite for completing the exclusion of our trade—those measures have been adopted—the contraband in Canada is at an end, and there is no longer that vent in British North America, which the Board fondly imagined it had so slily provided for our commerce; a vent which, at the best, must have been a most wretched compensation for the loss of the American traffic, in its direct and full course.

But, Sir, we are talking of substitutes; and I must here ask how much of the South American or European trade is really a substitute for that of the United States?—because, unless it is strictly speaking so substituted in its place, that it would be destroyed were the North American trade restored, no possible argument can be drawn from its amount, against the measures which I now recommend for regaining the market of the United States. It is pretended that the export to North America used to be much greater than the consumption of that country, and that a large part of it was ultimately destined for the consumption of South America and the West Indies; from whence the inference is drawn, that as we now supply those markets directly, the opening of the North American market would not be so large an increase as is supposed. The fact is quite otherwise. It is proved in evidence by a respectable witness* who has resided for years in

* Mr. P. C. White.

America, and by the official returns before Congress, that not above a thirteenth in value of the amount of the goods sent from this country to the United States, is in the whole re-exported to South America and the West Indies; and of this not above a half can be British manufacture. There will only be then a diminution of half a million in the export to North America from this cause, and that must have been much more than supplied by the increase of the North American market since the trade was stopt. So too the markets of Brazil, and of Spain and Portugal, which are spoken of as substitutes for our North American commerce, will most unquestionably continue as at present after that commerce shall have been restored. All the deductions that we have any right to make are too contemptible to be mentioned. No proof is offered or even attempted to be given, that these pretended substitutes, are in fact substitutes; that they would not continue to exist in their present extent after the revival of the branches in the place of which they are absurdly said to be substituted. Therefore I need not argue as to the extent or the excellence of these new markets. Be they ever so valuable—be they as fine as the Vice-President and his Board can dream of, my argument is not touched by them, until it be shewn, that we must lose them by restoring our intercourse with the United States.

Since the pressure then which the loss of our foreign trade has occasioned, have we discovered in the course of the inquiry any relief? The gentlemen opposite eagerly fly to the home market; and here their disappointment is, I grieve to say, speedy and signal. On this branch of the question the evidence is most striking and harmonious. In all the trades which we examined, it appeared that the home market was depressed

in an unexampled degree. And this effect has been produced in two ways. Goods destined for the foreign market, no longer finding that vent, have been naturally thrown more or less into the home market, so as to glut, or at least greatly overstock it. And again, those places which depended for part of their support upon the foreign market, have been so crippled by the loss of it, that their consumption of articles of comfort and luxury has been materially contracted. This is remarkably illustrated in the evidence respecting the cutlery trade; which, from the nature of its articles, is peculiarly calculated to explain both the circumstances I have alluded to. Not only do the dealers in that line find the home market unusually loaded with their goods, but they tell you that they find a much smaller demand than formerly for those goods, in all places which used to be engaged in the American trade. Evidence of the same kind is to be found touching another article of luxury, or at least comfort, the Kidderminster manufactory; and the respectable and intelligent witnesses from Spitalfields explained fully how the diminution of their staple manufacture, from what causes soever arising, never failed to affect all the other branches of industry in that district, down to the bricklayer and common day-labourer. It must be so; the distribution of wealth, the close connexion and mutual dependency of the various branches of industry, will not permit it to be otherwise.

While I am speaking of the home trade, Sir, I must, call your attention in passing, to one species of relief which is more apparent than real, arising to that branch of our commerce out of the war and its expenditure. It is certain that at present a great part of the trade which remains to us is not a regular, lucrative, and if I may so speak, wholesome and natural trade—but a mere transference of money from the tax-payer

through the tax-gatherer to the manufacturer or merchant—a mere result of the operations of supply within this House, and the operations of war out of it. I speak now, not only of the three millions a year paid to the shipping interest for the transport service—nor of the vast amount of our expenditure in the Peninsula and Mediterranean; which delusively augment by many millions the apparent exports of the country, but I will take an instance from the evidence and the papers on your table, and it shall be from Birmingham. Half of the trade there being now gone, there remains a manufacture, we are told, of goods to the amount of L.1,200,000 a year, for home consumption. But this home consumption includes the demand of that great and extravagant consumer the Government. The Ordnance accounts shew that above L.700,000 are paid in one year for gun and pistol barrels made at Birmingham; so that only half a million is the real and genuine extent of the remaining manufacture. The rest no doubt relieves the manufacturers and workmen, but it is a relief at the expense of the other members of the community; and the expense goes to feed the war—to support soldiers and sailors, who in return, though doubtless they perform great and precious services to the country, yet do not at all contribute to augment its wealth, or maintain its revenues, as workmen and peasants would do if the same sums were expended upon them. A similar observation may be applied to the expenses of clothing the Army and Navy. In Yorkshire, and some parts of Scotland, these demands have been found to constitute the bulk of the remaining trade. Their amount I know not with any accuracy, as the returns which I moved for are not yet produced; but it is easy to conjecture that six or seven hundred thousand men cannot be clothed at a very small expense. All these demands must be deducted from the account, if we

wish to exhibit a fair view of the actual state of our manufactures.

Suffer me, Sir, before leaving this part of the subject to state a circumstance, connected with the Home trade, which is peculiarly striking, and argues to shew clearly, that things are in such a state that any relief obtained in one quarter must be at the expense of another. In the clothing districts, it was stated that about a year and a-half ago, a considerable extension of trade had been experienced in many branches; and no sooner was the circumstance mentioned than the Vice-President's countenance brightened up, as if he had at length begun to see daylight, and the tide was really turning in his favour: so he greedily pursued the inquiry. It turned out, however, that this relief, (and it was the only one of which we met with any trace during our whole investigation) was owing to a change of fashions, which about that time was introduced, the ladies having taken to wearing cloth pelisses during that winter. But soon after came the sequel of the same tale; for we were examining the Spitalfields weavers on some other points, and upon their stating that they were never so badly off as about a year and a-half ago, we inquired to what this was owing, and it turned out that it arose entirely from the change of fashions among the ladies, who no longer wore silk pelisses. Thus the clothiers were relieved entirely at the expense of the weavers, and the only instance which this long and various inquiry affords of the universal sufferings being interrupted by any more favourable events—the only diminution to the distresses that is any where to be met with—is one which increases those miseries precisely in the same degree in some other quarter, equally deserving our protection and our pity.

But there is one ground which the advocates of the

system always retreat to, when they are driven out of the facts, and find themselves unable either to deny the miseries which their projects have occasioned, or to contend that there are any practicable means of relief. They allow that our commerce is destroyed—they admit that the people are impoverished—but there are other considerations, they contend, which a great nation should entertain—there are more valuable possessions than trade and wealth—and we are desired to consider the dignity and honour of the country. Sir, there is no man within these walls to whom such an appeal could be made with more effect than to him who is now addressing you. Let it but be shewn to me that our national honour is at stake—that it is involved in this system—nay that it touches it in any one point—and my opposition from that moment is at an end—only prove to me, that although our trade is gone, or turned into confined, uncertain and suspicious channels—although our manufacturers are ruined and our people starving—yet all these sacrifices and sufferings are necessary for our character and name—I shall be the first to proclaim that they are necessary and must be borne, because I shall ever be the foremost to acknowledge that honour is power and substantial inheritance to a great people, and that public safety is incompatible with degradation. Let me but see how the preservation of our maritime rights, paramount as I hold them to every other consideration, is endangered by the repeal of the Orders in Council—and I sit down and hold my peace. But I now urge you to that repeal, because I hold it most conscientiously to be, not injurious but essential to the preservation and stability of those rights, and of the naval power which protects them; and I must therefore crave your leave to step aside for a while from the details in which I have been engaged, in order to remove, as I well know

I speedily can, all idea of the necessity of the Orders in Council to the security of our Naval rights. This explanation is due both to the question itself, to the numerous parties who are now in breathless anxiety awaiting its decision, and if I may presume to say so, to my own principles and character.

On the foundation of our pretensions as at the present time urged I am loth to enter, because, whether they are just or not, according to my view of the question, the maintaining or abandoning of them, even of the most untenable among them, is quite foreign to this discussion. I will not therefore stop to examine the value, or the justice of our claim to unlimited blockade—what is significantly termed *paper blockade*. I might ask since when this has been introduced or sanctioned by even our own Courts of Public Laws? I might refer you to the beginning of last war, when our commanders in the West Indies having declared the ports of Martinico under blockade, the highest authority in matters of prize, the Lords of Appeal, without hesitation decided this blockade to be contrary to the Law of Nations, and refused to support it. But as my argument requires no such position, as it leads me quite clear of this question, I wish not to embarrass myself at all with it, and I will freely grant every thing that can be asked upon the question of right. I will admit that we have a right to blockade, by a few lines in the Gazette, whole islands, coasts, continents, nay, the entire world and all its harbours, without sending a single sloop of war to enforce the order. This admission, I should think, is sufficient to satisfy the most blockading appetite in the House, though I perceive, by the smile of distrust on the Chancellor of the Exchequer's countenance, that it falls short of his notions. I will also pass over the still more material question, how far we have a right to blockade, for

purposes not belligerent but mercantile, that is, to exclude neutrals from trading with our enemy, not with the view of reducing that enemy to submission, and terminating the contest more speedily, for the general good, but upon the speculation of stunting the enemy's trade and encouraging our own. Lastly, I shall say nothing of the most obvious of all these questions—how far we have a right to blockade the enemy, and exclude the neutral, for the purpose of breaking our own blockade and engrossing the trade with the enemy, from which we keep the neutral out—a question ably stated the first time I had the honour of bringing forward this subject, by a right honourable gentleman on the opposite side.* All these questions I pass from, however strong my opinion may be upon some of them; and I do not even stop to show what the evidence does at every step substantiate, that the Orders in Council do in no respect tend to secure any one even of those pretended advantages for our own trade over the enemy's; but I hasten to grapple with the substance of the argument on the other side, by which the Orders in Council are connected with these maritime rights, all of which I am now admitting. It is said, that if we repeal those Orders, and wave or relinquish for the present and for our own evident advantage, the rights on which they are founded, then we sacrifice those rights for ever, and can never again, happen what may, enforce them. Is it really so, Sir? Then woe betide us and our rights! for which of all our maritime rights have we not at one time or another relinquished? Free ships make free goods, says the enemy, and so say many other powers. This we strenuously deny, and we deem our denial the very corner-stone of our mari-

* Mr. Canning.

time system. Yet at the peace of Utrecht we gave it up, after a war of unexampled success, a series of uninterrupted triumphs, in which our power was extended, and France and her allies humiliated. The famous rule of the war of 1756, has had the same fate—that principle out of which the Orders in Council unquestionably sprung. The name by which it is known shews that it is but a modern invention; but it seems to have been waved or relinquished almost as soon as it was discovered; for in the American war it was given up, not only in practice, but by repeated decisions in our Prize Courts: I allude especially to the well-known judgments of Sir James Marriott upon this point. In the last war it was also departed from, by express acts of the government in 1793 and 1794; yet, by a strange coincidence, the very person who now tells us that to refrain from forcing a right and to abandon it for ever, are one and the same thing, was he who contributed more than any other man to revive the rule of the war 1756; he who gave to the world an able and learned work, certainly,—but one which I deeply lament ever saw the light,—I mean the tract known by the name of "*War in Disguise.*" Another, and, in my opinion, by far the most valuable of our maritime rights, is the right of search for contraband of war; it is one of the most unquestionable, too, for it is strictly a belligerent principle. But have we invariably exercised it? Nay, have we not offered to give it up? Recollect the first armed neutrality, at the close of the American war; Mr. Fox was then engaged in negotiating away this very right; and by a fatality as remarkable as that which I have just spoken of, this very statesman (and a greater has never ruled in this kingdom, nor one more alive to the true honour of his country) was the very man who first extended the right of blockade, in May 1806; and his colleagues, regulated by his principles,

were the authors of the coasting blockade, the first step to the famous Orders in Council. How, then, can any man who has a memory about him, pretend to tell us, that if we for a moment cease to exercise those rights, we never can again enforce them, when you find that we have not merely abstained from exercising, but actually surrendered at different times all the maritime principles which we now hold most sacred and most essential? Is it necessary always to do a thing because you have the right to do it? Can a right not be kept alive except by perpetually using it, whether hurtful or beneficial? You might just as well say, that because I may have a clear right of way through my neighbour's close, therefore I must be eternally walking to and fro in the path, upon pain of losing my right should I ever cease to perform this exercise. My honourable and learned friend* would run up and tell me, if he saw me resting myself, or eating, or sleeping, or walking to church,—"Why, what are you about? You are leaving, relinquishing, abandoning your inviolable and undoubted right; if you do not instantly return and constantly walk there, you are an undone man." It is very possible that this may be destructive of my comforts, nay, absolutely ruinous to me, but still I must walk, or my right of way is gone. The path may lead to a precipice or a coal-pit, where I may possibly break my neck in groping after my sacred rights. What then? My grandchildren, long after I shall have been destroyed in preserving this claim, may have to thank me for some pleasant or profitable walk, which it seems there was no other way of keeping possession of but by my destruction. This is precisely the argument applied to the present question. I will maintain that

* Mr. Stephen.

every right may safely be waved, or abandoned for reasons of expediency, and resumed when those reasons cease. If it is otherwise—if a right must be exerted, whether beneficial or ruinous to him who claims it, you abuse the language by calling it a right—it becomes a duty, an obligation, a burthen. I say, if your interest requires the relinquishment of the rights in question, abstain from enforcing them—give them up under protest—do not abandon them—do not yield them in such a way that you may seem to acknowledge yourselves in the wrong—but with all the solemnities which can be devised, with as many protestations and other formalities as the requisite number of civilians can invent; state that you are pleased to wave the exercise of the right for the present, or until further notice; and that for your own interest, and with views of your own, you are content to refrain from enforcing this chapter of the maritime code. Their brain must be filled with whimsies, and not with ideas of right, who can imagine that a conduct like this would place our pretensions in jeopardy, or throw a single obstacle in the way of exerting on the morrow the very same rights, of which next Saturday's Gazette should contain the waiver. Always let it be remembered, that I ask no surrender, no acknowledgment. I say keep fast hold of your rights—on no account yield them up—but do not play the part of madness, and insist on always using those rights even when their use will infallibly work your ruin.

In entering, Sir, upon the discussion of our maritime system, I have been drawn aside from the course of my statement respecting the importance of the commerce which we are sacrificing to those pure whimsies, I can call them nothing else, respecting our abstract rights. That commerce is the whole American market—a branch of trade in comparison of which, whe-

ther you regard its extent, its certainty, or its progressive increase, every other sinks into insignificance. It is a market which in ordinary years may take off about thirteen millions worth of our manufactures; and in steadiness and regularity it is unrivalled. In this respect, or indeed in any other, it very little resembles the right honourable gentleman's* famous South American market. It has none of the difficulty and uncertainty which it seems are now among the characteristics of a good trade; neither has it that other remarkable quality of subjecting those who use it to a loss of fifty or sixty per cent. unless they put their speculations and assortments under the fostering care of the Board of Trade. All such properties I disclaim on the part of the American commerce; it is sure and easy, and known, and gives great and steady profits. The returns are indeed as sure, and the bad debts as few, as they used to be even in the trade of Holland. Those returns are also grown much more speedy. Of this you have ample proof before you, not merely from the witnesses actually examined, who have all said that the payment was now as quick as in any other line, and that the Americans often preferred ready money bargains for the discount; but the same thing is exemplified in the *omissions* of the case brought forward by the petitioners. Four years ago they told you, and proved it at your bar, that were the intercourse with the United States cut off we should lose above twelve millions, or a year and a half's payments, that being the sum then due from America to this country. *Now* they have no such case to urge; for they well know, that were a balance struck between the two nations to-morrow, it would be considerably in

* Mr. Rose.

favour of the Americans, so greatly have they increased in wealth, and so rapidly has this immense trade been growing, as it were, under our very eyes!

There are some political facts, which we must take as facts, because they are proved to us, without being able to account for them, or to trace them to their origin, and explain their causes. But the extent, and swift and regular progress of the American market for British goods is not of this number; we can easily and clearly account for it. In the nature of things it can be no otherwise, and the reason lies on the very surface of the fact. America is an immense agricultural country, where land is plentiful and cheap; men and labour, though quickly increasing, yet still scarce and dear when compared with the boundless regions which they occupy and cultivate. In such a country, manufacturers do not naturally thrive; every exertion, if matters be left to themselves, goes into other channels. This people is connected with England by origin, language, manners, and institutions; their tastes go along with their convenience, and they come to us as a matter of course for the articles which they do not make themselves. Only take one fact as an example: The negroes in the Southern States are clothed in English made goods, and it takes forty shillings a-year thus to supply one of those unfortunate persons. This will be admitted to be the lowest sum for which any person in America can be clothed; but take it as the average, and make deduction for the expenses above prime cost—you have a sum upon the whole population of eight millions, which approaches the value of our exports to the United States. But it is not merely in clothing; go to any house in the Union, from their large and wealthy cities to the most solitary cabin or log-house in the forests—you find in every corner the furniture, tools, and ornaments of Staffordshire, of Warwickshire,

and of the northern counties of England. The wonder ceases when we thus reflect for a moment, and we plainly perceive that it can be no otherwise. The whole population of the country is made up of customers, who require and who can afford to pay for our goods. This, too, is peculiar to that nation, and it is a peculiarity as happy for them as it is profitable to us. I know the real or affected contempt with which some persons in this country treat our kinsmen of the west. I fear some angry and jealous feelings have survived our former more intimate connexion with them—feelings engendered by the event of its termination, but which it would be wiser as well as more manly to forget. Nay, there are certain romantic spirits who even despise the unadorned structure of their massive democratic society. But to me I freely acknowledge the sight of one part of it brings feelings of envy, as an Englishman; I mean the happy distinction, that over the whole extent of that boundless continent, from Canada to the Gulph of Mexico, and from the Mississippi to the Atlantic Ocean, there is not one pauper to be found. Such are the customers whom America presents to us. The rapid increase of their culture and population too, doubling in twenty-five or thirty years, must necessarily augment this demand for our goods in the same proportion. Circumstanced as the two countries are, I use no figure of speech, but speak the simple fact when I say, that not an axe falls in the woods of America which does not put in motion some shuttle, or hammer, or wheel in England. Look at Mr. Parkes's evidence, and you will see that the changes which happen in the New World, or the political proceedings of the two governments, their orders, and manifestoes, and negotiations, may be perceptibly traced in their instantaneous effects in this country—in the increased or diminished velocity (I speak to the letter) of the wheels

which are moving in the different districts where English manufactures used to flourish.

But let us merely pause upon the broad fact of the present amount of the American market, and let us keep our eye for a moment upon the numerical expression of its demand—thirteen millions sterling by the year! Why, Sir, only conceive any event which should give an opening in the north of Europe, or the Mediterranean for but a small part of this vast bulk—some change or accident by which a thirteenth, aye, or a thirtieth of this enormous value of British goods could be thrown into the enemy's countries! Into what transports of delight would the Vice President be flung! I verily believe he would make but one step from his mansion to his office—all Downing-street, and all Dukes'-place would be in an uproar of joy. Bless me, what a scene of activity and business should we see! What Cabinets —what Boards!—What amazing conferences of Lords of Trade?—What a driving together of Ministers!—What a rustling of small clerks!—What a mighty rushing of brokers!—Circulars to the manufacturing towns —harangues upon 'Change, performed by eminent naval characters—triumphal processions of dollars and volunteers in St. James's-square!—Hourly deputations from the merchants—courteous and pleasing answers from the Board—a speedy importation into Whitehall, to a large amount, of worthy knights representing the city —a quick return cargo of licences and hints for cargoes —the whole craft and mystery of that licence trade revived, with its appropriate perjuries and frauds—new life given to the drooping firms of dealers in forgery, whom I formerly exposed to you—answered by corresponding activity in the Board of Trade and its clerks—slips of the pen worth fifteen thousand pounds*—judi-

* Mr. Baring had stated, that by two mistakes at one time licences were rendered so valuable, that he would have given that sum for them.

cious mistakes—well-considered oversights—elaborate inadvertencies—Why, Sir, so happily constituted is the Right Honourable Gentleman's* understanding, that his very blunders are more precious than the accuracies of other men; and it is no metaphor, but a literal mercantile proposition, to say, that it is better worth our while to err with him than to think rightly with the rest of mankind!—And all this life, and activity, and machinery for what?—To snatch at a miserable export—occasional—fleeting—irregular—ephemeral—very limited in amount—unlikely to recur—uncertain in its return—precarious in its continuance—beneficial to the enemy—exposed to his caprices, and liable by his nod to be swept at once into the fund of his confiscations—enjoyed while he does permit it, by his sufferance for his ends—enriching his subjects—manning his fleets—nursing up for him a navy which it has already taken the utmost efforts of our unconquerable marine to destroy!—Good God! the incurable perverseness of human folly!—always straining after things that are beyond its reach, of doubtful worth and discreditable pursuit, and neglecting objects of immense value, because in addition to their own importance, they have one recommendation which would make viler possessions desirable—that they can be easily obtained, and honestly as well as safely enjoyed!—It is this miserable, shifting, doubtful, hateful traffic that we prefer, to the sure, regular, increasing, honest gains of American commerce; to a trade which is placed beyond the enemy's reach—which besides encircling ourselves in peace and honour, only benefits those who are our natural friends, over whom he has no controul, but who if they were ever so hostile to us, could not annoy us—which supports at

* Mr. Rose.

once all that remains of liberty beyond the seas, and gives life and vigour to its main pillar within the realm, the manufactures and commerce of England!

And now, Sir, look to the other side of this picture.—See to what sources of supply you are driving the Americans, when you refuse them your own markets.—Why, you are forcing them to be wholly dependent on themselves! The eighteenth century closed with a course of violence and folly, which in spite of every natural tie, dissolved their political connection with the crown; and, as if the cup of our infatuation was not full, we must begin the nineteenth with the phrenzy of severing them from all connexion, and making them, contrary to the course of nature itself, independent of our manufacturers and merchants! I will not go through the evidence upon this important branch of the case, for I feel myself already too much exhausted to attempt it; but whoever reads it will find it uniformly in every page shewing the effects of our system, in forcing manufactures all over America to rival our own. There is not one branch of the many in which we used quietly, and without the least fear of competition to supply them, that is not now to a certain degree cultivated by themselves; many have wholly taken rise since 1807—all have rapidly sprung up to a formidable maturity. To give but a few examples.—In New-York there are now forty thousand looms going—glass is made in a way that we ourselves witnessed, for we saw the specimen produced—wool cards are now made there which used regularly to be imported from hence—and there is a considerable exportation of cotton twist to the South of Europe, from the country which possesses the most abundantly the raw material. I say nothing of their wool, and the excellent Merino breed they have obtained from Spain. Look only to one striking fact—Pittsburgh is a town remotely situated

in the most western part of the Union. Eighteen years ago it was a hamlet, so feeble and insecure that the inhabitants could scarcely defend themselves from their Indian neighbours, and durst hardly quit the place for fear of being scalped. Now there are steam engines and a large glass work in the same town, and you saw the product of its furnaces. It stands on a stratum of coal fifteen feet thick, and within a few inches of the surface, which extends over all the country west of the Alleghany chain. Coal there sells for six shillings the chaldron, and the same precious mineral is to be found in the Atlantic States, at Richmond, and elsewhere, accessible by sea. It is usual to see men on 'Change in the large towns with twenty, thirty, and fifty thousand pounds in trade—Companies are established for manufactures, insurance, and other mercantile speculations, with large capitals, one as high as L.120,000 sterling—The rate of interest is six per cent., and the price of land in some places as high as in England. I do not enumerate these things to prove that America can already supply herself,—God forbid!—If she could, the whole mischief would be done, and we could not now avert the blow; but though too much has indeed been effected by our impolicy, a breathing time yet is left, and we ought at least to take advantage of it, and regain what has been thrown away—in four or five years' time it will be gone for ever.

But I shall here be told, as I often have been, that these counsels spring from fear, and that I am endeavouring to instil a dread of American manufactures, as the ground of our measures—Not so, Sir,—I am inculcating another fear—the wholesome fear of utter impolicy mixed with injustice—of acting unfairly to others for the purpose of ruining yourselves. And after all, from what quarter does this taunt proceed? Who are they by whom I am upbraided for preaching

up a dread of rival American manufactures?—The very men whose whole defence of the system is founded upon a fear of competition from European manufactures—who refuse to abandon the blockade of France, from an apprehension (most ridiculous as the evidence shews) of European manufactures rivalling us through American commerce—who blockade the Continent from a dread that the manufactures of France, by means of the shipping of America, will undersell our own—the men whose whole principle is a fear of the capital, industry and skill of England being outdone by the trumpery wares of France, as soon as her market is equally open to both countries!—Sir, little as I may think such alarms worthy of an Englishman, there *is* a kind of fear which I would fain urge—a fear too of France; but it is of her arms and not of her arts. We have in that quarter some ground for apprehension, and I would have our policy directed solely with a view to removing it. Look only at the Spanish war in its relation to the American trade.—In that cause we have deeply embarked—we have gone on for years, pouring into it our treasures and our troops, almost without limit, and all the profit is yet to come. We have still to gain the object of so many sacrifices, and to do something which may shew they have not been made in vain. Some great effort it seems resolved to make, and though of its result others are far more sanguine than I am able to feel, I can have little hesitation in thinking, that we had better risk some such attempt once for all, and either gain the end in view, or, convinced that it is unattainable, retire from the contest. If then this is our policy, for God's sake let the grand effort be made, single and undivided—undistracted by a new quarrel, foreign to the purpose, and fatally interfering with its fulfilment.—Let us not for the hundredth time commit the ancient error which

has so often betrayed us, of frittering down our strength —of scattering our forces in numerous and unavailing plans.—We have no longer the same excuse for this folly which we once had to urge. All the colonies in the world are our own—sugar Islands and spice Islands there are none from Martinico to Java, to conquer—we have every species of unsaleable produce in the gross, and all noxious climates without stint. Then let us not add a new leaf to the worst chapter of our book, and make for ourselves new occasions, when we can find none, for persisting in the most childish of all systems. While engaged heartily on our front in opposing France, and trying the last chance of saving Europe, let us not secure to ourselves a new enemy, America, on our flank. Surely language wants a name for the folly which would, at a moment like the present, on the eve of this grand and decisive and last battle, reduce us to the necessity of feeding Canada with troops from Portugal—and Portugal with bread from England.

I know I shall be asked, whether I would recommend any sacrifice for the mere purpose of conciliating America. I recommend no sacrifice of honour for that or for any purpose; but I will tell you, that I think we can well and safely for our honour afford to conciliate America. Never did we stand so high since we were a nation, in point of military character. We have it in abundance, and even to spare. This unhappy and seemingly interminable war, lavish as it has been in treasure, still more profuse of blood, and barren of real advantage, has at least been equally lavish of glory; its feats have not merely sustained the warlike fame of the nation, which would have been much; they have done what seemed scarcely possible; they have greatly exalted it; they have covered our arms with immortal renown. *Then* I say use this glory—use this proud

height on which we now stand, for the purpose of peace and conciliation with America. Let this and its incalculable benefits be the advantage which we reap from the war in Europe; for the fame of that war enables us safely to take it;—And who, I demand, give the most disgraceful counsels—they who tell you we are in military character but of yesterday—we have yet a name to win—we stand on doubtful ground—we dare not do as we list for fear of being thought afraid—we cannot without loss of name stoop to pacify our American kinsmen! Or I, who say we are a great, a proud, a warlike people—we have fought every where, and conquered wherever we fought—our character is eternally fixed—it stands too firm to be shaken—and on the faith of it we may do towards America, safely for our honour, that which we know our interests require!—This perpetual jealousy of America! Good God! I cannot with temper ask on what it rests! It drives me to a passion to think of it—Jealousy of America! I should as soon think of being jealous of the tradesmen who supply me with necessaries, or the clients who entrust their suits to my patronage. Jealousy of America! whose armies are yet at the plow, or making, since your policy has willed it so, awkward (though improving) attempts at the loom—whose assembled navies could not lay siege to an English sloop of war:—Jealousy of a power which is necessarily peaceful as well as weak, but which, if it had all the ambition of France and her armies to back it, and all the navy of England to boot, nay, had it the lust of conquest which marks your enemy, and your own armies as well as navy to gratify it—is placed at so vast a distance as to be perfectly harmless! And this is the nation of which for our honour's sake we are desired to cherish a perpetual jealousy, for the ruin of our best interests!

I trust, Sir, that no such phantom of the brain will

scare us from the path of our duty. The advice which I tender is not the same which has at all times been offered to this country. There is one memorable era in our history, when other uses were made of our triumphs from those which I recommend. By the treaty of Utrecht, which the execrations of ages have left inadequately censured, we were content to obtain as the whole price of Ramillies and Blenheim, an additional share of the accursed slave trade. I give you other counsels. I would have you employ the glory which you have won at Talavera and Corunna, in restoring your commerce to its lawful, open, honest course; and rescue it from the mean and hateful channels in which it has lately been confined. And if any thoughtless boaster in America or elsewhere should vaunt that you had yielded through fear, I would not bid him wait until some new achievement of our arms put him to silence, but I would counsel you in silence to disregard him.

Sir, I move you,—"That an humble address be presented to His Royal Highness the Prince Regent, representing to His Royal Highness that this House has, for some time past, been engaged in an inquiry into the present depressed state of the manufactures and commerce of the country, and the effects of the Orders in Council issued by His Majesty in the years 1807 and 1809; assuring His Royal Highness, that this House will at all times support His Royal Highness to the utmost of its power, in maintaining those just maritime rights which have essentially contributed to the prosperity and honour of the realm—but beseeching His Royal Highness, that he would be graciously pleased to recall or suspend the said Orders, and to adopt such measures as may tend to conciliate Neutral Powers, without sacrificing the rights and dignity of His Majesty's crown."

# SPEECH

AT

# THE LIVERPOOL ELECTION.

1812.

# INTRODUCTION.

MR. ROSCOE.—MR. CREEVEY.

In consequence of Mr. Brougham's connexion, both in 1808 and 1812, with the commercial interests of Liverpool, especially those persons engaged in the American trade, he was invited to attend a public dinner after the termination of the Northern Circuit, in August 1812. Mr. Roscoe presided, and the Lord Lieutenant, the late Lord Derby, as well as the present Earl, then Lord Stanley, with Lord Sefton, and many others of the Lancashire country gentlemen who favoured liberal principles, attended. Dr. Shepherd, the able, learned, and enlightened friend of every cause connected with the interests of civil and religious liberty, also honoured the meeting with his presence. A requisition was soon after sent inviting Mr. Brougham to stand as candidate for the borough at the approaching general election, and it was immediately manifest that one of the present members, General Tarleton, had no chance of success, should Mr.

Brougham accept the invitation, which he immediately did.

But a further resolution was taken, which has been, in consequence of the eventual failure, the subject of much animadversion upon the Whig leaders of Liverpool. Not satisfied with returning one member, they brought forward a second in the person of their fellow-townsman, Mr. Creevey, then member for Thetford, for which place he was again returned during the Liverpool election. The first effect of this proceeding was to confirm the Tory party in an intention which they had already been discussing among themselves, that of bringing forward Mr. Canning, together with General Gascoigne, who stood upon the old corporation interest. Mr. Canning accepted the invitation of the great and spirited body of Tory merchants not immediately connected with that municipal body, and there were thus four candidates in the field standing upon four several interests,—General Gascoigne, upon that of the Corporation,—Mr. Canning upon the Tory Independent interest,—Mr. Brougham and Mr. Creevey, upon the Whig interest—and General Tarleton, upon such support as might remain to him among his former adherents.

Those who were acquainted with Liverpool well knew that the Whig interest, at least in later times, had never returned even a single member but once, when Mr. Roscoe was chosen with General Gascoigne in 1806, the Grenville ministry being then in power; for though General Tarleton was commonly ranked as one of Mr. Fox's friends, he yet owed his seat as much to Tory support as to Whig, being chosen from local and personal connexion with the place. No one, there-

fore, at all acquainted with Liverpool politics, and whose judgment was left calm and unbiassed by the passing events, especially the late victory against the Orders in Council, had any very sanguine expectation that the Whig interest could defeat entirely all the Tory power, the Corporation interest, and the Government influence; and the total defeat of the opposition party seemed inevitable, unless one of their candidates should be withdrawn.

Mr. Roscoe was the principal advocate of the measure now under consideration,—and certainly there was no man whose opinion better deserved to be consulted, whose wishes had more claims to compliance, or whose errors, if such they were, had a greater right to indulgence. He was in some respects one of the most remarkable persons that have of late years appeared in either the political or the literary world. Born in the most humble station, for his parents were menial servants in the fine country mansion which afterwards was his own, he had risen to the highest rank in a laborious and useful profession, having become one of the most eminent of the Lancashire Solicitors,—a class of practitioners distinguished among those of the kingdom at large by great knowledge of their profession, and admirable skill in the conduct of their clients' affairs. Struggling with all the disadvantages of narrow circumstances, and of an education necessarily restricted, he had not only accomplished himself in the legal walks of his profession, but educated himself in more classical studies, so as to have become a great proficient in pursuits seldom if ever before combined with the practice of an attorney. His taste was cultivated and refined by familiarity with

Roman literature, and his mind was still farther enriched by a thorough acquaintance with the monuments of Italian genius. He devoted himself, notwithstanding the constant interruption of his business, to the study of all modern, as well as of Latin poetry; and with the rare exception of Mr. Mathias, it may be affirmed, that no one on this side the Alps has ever been more intimately acquainted with the writers, especially the poets, of modern Italy. The natural elegance of his mind, connected in a great measure with his honest simplicity of character, and the unruffled gentleness of his bland and kindly temper, was soon displayed in some poetical productions, among which his celebrated song on the early progress of the French Revolution acquired the greatest reputation.

But he united with the exercise of this talent a love of historical research, and an exercise of critical power, which combined with his poetical resources and his knowledge of languages, to form in him the most accomplished cultivator of literary history that ever appeared in any age. For although Muratori first, and afterwards Tiraboschi, in Italy, some others in France, and many in Germany, have left monuments of greater research—have thoroughly traced the progress of letters in various ways—have compiled their annals with that industry which can hardly be said to have survived them—and have bequeathed to after ages rich mines wherein to quarry, rather than galleries of finished works to gaze at,—we shall in vain search their numerous volumes for that grace and ease, that mixture of history and anecdote, that interspersion of philosophy with narrative, that combination of sagacity in

commenting upon characters and events with taste in describing and in judging the productions of the fine arts, which lend such a charm to the Lives of Lorenzo de Medici and Leo X; while their interest is still further heightened by the rich vein of the most felicitous poetical translation which runs through the whole of these admirable works, and leaves the less learned reader hardly a right to lament, because it scarcely lets him feel, his ignorance of the original tongues. The sensation caused by the life of the great Prince-Merchant of Tuscany suddenly appearing to enlighten the literary hemisphere, is still remembered by many. It seemed as if a new pleasure had been invented, a new sense discovered. Criticism was dumb; men had only time to be pleased and to be gratified; and at a period when the dignity of the Senate, even of its Lower Chamber, never allowed any allusion to the contemporary productions of the press, a Peer who had twice been minister, and was still a great party chief,* begged their Lordships to devote as much time as they might be able to spare from Lorenzo de Medici, to the study of an important state affair. By these works Mr. Roscoe not only laid deep and solid the foundations of an enduring fame for himself, but founded also a school, in which Dr. Shepherd, author of the Life of Poggio Bracciolini, and others have since distinguished themselves, and enriched the republic of letters.

Although it is by the productions of his pen that Mr. Roscoe's name has been made famous throughout Europe, yet were his merits and his claims to the

* Marquis of Lansdowne, father of the present Lord.

gratitude of mankind of a more various kind. An ardent devotion, from pure principle, to the best interests of humanity, was the unvarying and the constant guide of his public conduct, as the most strict discharge of every duty marked each step of his walk in private life. A solicitor in extensive practice, he was the advocate of all sound law reform. An attorney in the Borough Courts, he was the stern uncompromising enemy of chicanery, the fearless defender of the oppressed. A man of business under a wealthy and powerful corporation, he was ever the implacable denouncer of jobs and abuses. A confidential adviser among the aristocracy of the most Tory county in England, he was the most uncompromising enemy of tyranny, the friend of the people, the apostle of even democratic opinions. A leader among the parties who most gained by the war, he was throughout its whole course the zealous preacher of peace; and standing high among the traders of Liverpool, and at the head of its society, he was the unflinching enemy of the African Slave Trade, the enthusiastic advocate of its abolition. When he rose in fame, and throve in wealth—when he became one of the great bankers of the place, and was courted by all the leading men in its society—when his fame was spread over the world, and his native town became known in many remote places, as having given him birth—when he was chosen to represent her in Parliament, and associated with the first statesmen of the age,—this truly excellent person's unaffected modesty, his primitive simplicity of manners, never deserted him. As his rise in life had been rapid and easy, he bore his good fortune with an equal mind; and when the commercial

distresses of the country involved his affairs in ruin, the clouds which overcast the evening of his days disturbed not the serenity of his mind; the firmness which could maintain itself against the gales of prosperity, found the storms of adverse fortune, though more boisterous, much louder in their noise, yet not at all deceitful, and really less rude in their shock. His latter years were passed in his much loved literary leisure,—consoled by the kindness of his friends,—happy in the bosom of his amiable family,—universally respected by his countrymen,—by all the wise admired,—beloved by all the good.

Mr. Roscoe had satisfied his own mind that if Liverpool only sent one Whig with one Tory member to Parliament, the votes of the two neutralizing each other, she would be unrepresented—a fallacy plausible enough when thus stated, but easily exposed, by reflecting that if each constituency had been so represented, the Tory government must be at once overthrown. His councils, however, assisted by the great victory recently obtained in Parliament, and with which this contest was intimately connected, prevailed with the party. Mr. Creevey was brought into the field, and the contest proceeded with a violence until then unprecedented.

Of Mr. Canning, the champion of the Tory party, it is unnecessary here to speak. His great talents, his extensive accomplishments—the happy events which connected him with the liberal party, first upon the question of religious toleration, then upon foreign policy—the accident of his becoming the instrument by which mainly the old Tory party in this county was broken up,—are all fresh in any reader's recollection. His con-

nexion with Liverpool was not without its influence, both upon the course of those great events, and upon his political character. It took its latter shade very much from the contact with the people into which he was for the first time in his life brought at Liverpool; and if the disposition to take popular courses which he then acquired, tended to alienate from him the confidence of the Court party, who not only deserted, but ill-used and even persecuted him during his latter years, it is equally certain that from this source we may trace much of the good which has in late times been accomplished for the cause of the people and of liberal policy.

But of Mr. Creevey, it is fit that something should here be said, as upon his share in the contest of 1812, although assuredly not from any the least desire on his own part to mix in it, the issue of the election finally turned. When a second candidate was resolved upon, there could be no doubt where to look for him. Mr. Creevey was a native of Liverpool, well known to the chief men of the place, on very intimate habits with many of them, with their leader Mr. Roscoe, especially, and recommended to the people by a long and consistent course of the most steady, disinterested attachment to the principles of the liberal party. For he had been ten years in parliament, during which time he had, at great personal sacrifices, devoted himself to the strenuous assertion of popular rights, the exposure of all abuses in the management of affairs, the promotion of retrenchment and economy in all departments of the public service, the restoration of peace, and the furtherance of constitutional principles after the Whig or

Foxite model. His opinions coincided with those of the Whig aristocracy on questions of Parliamentary Reform, being friendly to that policy, but not carrying it to any great length, and regarding many abuses in the elective system, such as the bribery and expenses of elections where there are two or three hundred voters, as far worse in themselves, and much more pernicious in their consequences, both to the character of the voters and to the structure of the Parliament, than those flaws of rotten and nomination boroughs, which look far worse, and on all but abstract principle, are much more difficult to defend. But on other matters he had many wide differences with the regular leaders of his party. He despised the timidity which so often paralysed their movements; he disliked the jealousies, the personal predilections and prejudices which so frequently distracted their councils; he abhorred the spirit of intrigue, which not rarely gave some inferior man, or some busy meddling woman, probably unprincipled, a sway in the destiny of the party, fatal to its success, and all but fatal to its character; he held in utter ridicule the squeamishness both as to persons and things, which emasculated so many of the genuine, regular Whigs; and no considerations of interest—no relations of friendship—no regard for party discipline (albeit in other respects a decided and professed party man, and one thoroughly sensible of the value of party concert)—could prevail with him to pursue that course so ruinous to the Whig opposition, of half-and-half resistance to the Government; marching to the attack with one eye turned to the Court, and one askance to the Country, nor ever making war upon the Ministry

without regarding the time when themselves might occupy the position, now the object of assault.

This manly, straightforward view of things, not unaccompanied with expressions both as to men and measures, in which truth and strength seemed more studied than courtesy, gave no little offence to the patrician leaders of the party, who never could learn the difference between 1810 and 1780,—still fancied they lived "in times before the flood" of the French Revolution, when the heads of a few great families could dispose of all matters according to their own good pleasure,—and never could be made to understand how a feeble motion, prefaced by a feeble speech, if made by an elderly lord, and seconded by a younger one, could fail to satisfy the country, and shake the Ministry. But Mr. Creevey, and those who thought with him, such as Lord Folkestone (now Radnor) and General Ferguson, did not confine their dissidence to criticism, complaint, remonstrance. Their conduct kept pace with their language, and was framed upon the sentiments to which we have referred. Carefully avoiding any course that might give a victory to the common enemy, or retard the progress of their principles, they nevertheless often took a line of their own, bringing forward motions which were deemed too strong, as well as expressing opinions supposed to be too vehement, and opposing a resistance to many errors and abuses of the Government which the more aristocratic portion of the Whig party were inclined either feebly to impugn or altogether to pass over. On all that regarded the economy of the public money, still more on every instance of abuse, most of all on official corruption or delinquency of any kind, they were inexorable; nor

did any sort of questions tend more to sow dissension between them and the party at large, than questions of this description which involved considerations of economy and abuse, and of necessity led to personal charges often against men in high rank and station. The inquiries respecting the Duke of York, and those cognate questions respecting public corruption, which grew out of that famous passage, first banded together this party, jocularly termed "*The Mountain*," and drew a line of demarcation between them and the more regular portion of the Whigs. Nor were the marks of this separation ever well effaced until the enjoyment of office for several years had reconciled men's minds to their lot, and smoothed, without wholly planing down, the asperities of the line denoted by the junction of the two parts whereof the party was composed.

Mr. Creevey was a man of strong natural sense, without much cultivation, though extremely well informed upon all political subjects. His judgment being so much more remarkable than his imagination, he was apt to hold every thing in contempt which betokened either fancy or refinement. Preferring the shortest and the plainest road to his point, either looking down upon the ornamental parts of eloquence with contempt, or seeing them from a distance which he never aspired to pass, his style of speaking was that of a plain, reasoning, sensible person, who never left statements of fact and of reason, except to deal in somewhat fluent if not coarse invective. Even his invective consisted more in stating plain facts of an unpleasant nature, than in mere vituperative declamation. His taste, with all this contempt for refinement and de-

licacy, was perfectly correct; perhaps too severe and unbending; certainly defective in classing the flights of oratory, however sustained, with the less chaste productions of the rhetorician. Frequently in public, always in private society, his distinguishing excellence was a broad, inimitable, most successful humour; for he had a quick sense of the ridiculous in character, and a lively relish of the ludicrous, nor was he slow to indulge in the gratification of it. Mob oratory was never in much estimation with him; yet he was sure to succeed in it, when he tried, as at the Liverpool election—where his description of the meaning of the Previous Question was much noted, and conveys an idea of his manner. "You often hear when any of our irregular partisans having framed a motion against some public defaulter, that it is said to have been got rid by the Previous Question. Now you may just as well know what this means. It is, that the whole House says, 'All these things are very true, and we have no answer to make, and therefore the less that's said about the matter the better.'" He had some defects of temper which made him an undervaluer of all who differed from him in opinion, and a somewhat fierce enemy. He took more pleasure in censure than in praise, and was not very patient of the candour towards adversaries in others, which he so much wanted himself. But if he was a prejudiced antagonist and a strong hater, he was also a warm supporter and a steady friend, nor grudged any trouble, nor shrunk from any hazard in defence of those to whom he was attached. He is said to have left a minute Journal of political as well as personal occurrences, which he kept for above thirty years of

his life; and although it will require to be read with large allowances for the force of his personal prejudices, it is likely to contain more interesting materials for secret, and indeed for general history, than any collection of the kind which has ever appeared in this country.

After the election had gone on for some days, the Tories who supported Mr. Canning, made a direct proposition for a junction with Mr. Brougham's party, on the footing of the former giving up General Gascoigne, and the latter withdrawing Mr. Creevey. But this proposal was rejected, neither Mr. Brougham nor Mr. Creevey giving any opinion upon the subject, nor expressing any wish; except that the latter desired to be put wholly out of the question, the more especially as his seat was already secured by his being returned for Thetford. The proposition was rejected, and the election was lost; General Gascoigne being then supported by Mr. Canning's friends, and returned along with him. Mr. Brougham was in consequence thrown out of parliament, and no seat could be found for him among all the Whig boroughs, until, after an exclusion of three sessions, he was, by Lord Darlington's (Duke of Cleveland's) interest, at the request of his steady and faithful friend, Lord Grey, returned for Winchelsea, which he represented until 1830, when he was returned first for Knaresborough upon the Duke of Devonshire's interest, and then for Yorkshire upon his own.

The following speech was addressed to the people at Liverpool on the close of the poll, on the evening of the fourth day—being a very critical moment of the contest, and the night before the proposal above referred to came from the other party.

# SPEECH

AT

# THE LIVERPOOL ELECTION.

FRIDAY, OCT. 8, 1812.

# SPEECH.

GENTLEMEN,—I feel it necessary after the fatigues of this long and anxious day, to entreat, as I did on a former occasion, that you would have the goodness to favour me with as silent a hearing as possible, that I may not by over-exertion in my present exhausted state, destroy that voice which I hope I may preserve to raise in your defence once more hereafter.

Gentlemen, I told you last night when we were near the head of the poll, that I, for one at least, would never lose heart in the conflict, or lower my courage in fighting your battles, or despair of the good cause although we should be fifty, a hundred, or even two hundred behind our enemies. It has happened this day, that we have fallen short of them, not quite by two hundred, but we have lost one hundred and seventy votes: I tell you this with the deepest concern, with feelings of pain and sorrow which I dare not trust myself in attempting to express. But I tell it you without any sensation approaching to despondency. This is the only feeling which I have not now present in

my breast. I am overcome with your unutterable affection towards me and my cause. I feel a wonder mingled with gratitude, which no language can even attempt to describe, at your faithful, unwearied, untameable exertions in behalf of our common object. I am penetrated with an anxiety for its success, if possible more lively than any of yourselves can know who are my followers in this mighty struggle—an anxiety cruelly increased by that which as yet you are ignorant of, though you are this night to hear it. To my distinguished friends who surround me, and connect me more closely with you, I am thankful beyond all expression. I am lost in admiration of the honest and courageous men amongst you who have resisted all threats as well as all bribes, and persevered in giving me their free unbought voices. For those unhappy persons who have been scared by imminent fear on their own and their children's behalf from obeying the impulse of their conscience, I feel nothing of resentment—nothing but pity and compassion. Of those who have thus opposed us, I think as charitably as a man can think in such circumstances. For this great town, (if it is indeed to be defeated in the contest, which I will not venture to suppose) for the country at large whose cause we are upholding—whose fight we are fighting—for the whole manufacturing and trading interests—for all who love peace—all who have no profit in war—I feel moved by the deepest alarm lest our grand attempt may not prosper. All these feelings are in my heart at this moment—they are various—they are conflicting—they are painful—they are burthensome—but they are not overwhelming! and amongst them all, and I have swept round the whole range of which the human mind is susceptible—there is not one that bears the slightest resemblance to despair. I trust myself once more into your faithful

hands—I fling myself again on you for protection—I call aloud to you to bear your own cause in your hearts—I implore of you to come forth in your own defence—for the sake of this vast town and its people—for the salvation of the middle and lower orders—for the whole industrious part of the whole country—I entreat you by your love of peace—by your hatred of oppression—by your weariness of burthensome and useless taxation—by yet another appeal to which those must lend an ear who have been deaf to all the rest—I ask it for your families—for your infants—if you would avoid such a winter of horrors as the last! It is coming fast upon us—already it is near at hand—yet a few short weeks and we may be in the midst of those unspeakable miseries, the recollection of which now rends your very souls. If there is one freeman amongst this immense multitude who has not tendered his voice,—and if he can be deaf to this appeal,—if he can suffer the threats of our antagonists to frighten him away from the recollections of the last dismal winter,—that man will not vote for me. But if I have the happiness of addressing one honest man amongst you, who has a care left for his wife and children, or for other endearing ties of domestic tenderness, (and which of us is altogether without them?) that man will lay his hand on his heart when I now bid him do so,—and with those little threats of present spite ringing in his ear, he will rather consult his fears of greater evil by listening to the dictates of his heart, when he casts a look towards the dreadful season through which he lately passed—and will come bravely forward to place those men in Parliament whose whole efforts have been directed towards the restoration of peace, and the revival of trade.

Do not, gentlemen, listen to those who tell you the cause of freedom is desperate;—they are the enemies

of that cause and of you,—but listen to me,—for you know me,—and I am one who has never yet deceived you,—I say, then, that *it will be* desperate if you make no exertions to retrieve it. I tell you that your languor alone can betray it,—that it can only be made desperate through your despair. I am not a man to be cast down by temporary reverses, let them come upon me as thick, and as swift, and as sudden as they may. I am not he who is daunted by majorities in the outset of a struggle for worthy objects,—else I should not now stand here before you to boast of triumphs won in your cause. If your champions had yielded to the force of numbers,—of gold—of power—if defeat could have dismayed them—then would the African Slave Trade never have been abolished—then would the cause of Reform, which now bids fair to prevail over its enemies, have been long ago sunk amidst the desertions of its friends,—then would those prospects of peace have been utterly benighted, which I still devoutly cherish, and which even now brighten in our eyes,—then would the Orders in Council which I overthrew by your support, have remained a disgrace to the British name, and an eternal obstacle to our best interests. I no more despond now than I have done in the course of those sacred and glorious contentions,—but it is for you to say whether to-morrow shall not make it my duty to despair. To-morrow is your last day,—your last efforts must then be made;—if you put forth your strength the day is your own—if you desert me, it is lost. To win it I shall be the first to lead you on, and the last to forsake you.

Gentlemen, when I told you a little while ago that there were new and powerful reasons to-day for ardently desiring that our cause might succeed, I did not sport with you,—yourselves shall now judge of them. I ask you,—Is the trade with America of any import-

ance to this great and thickly peopled town? (cries of Yes! yes!) Is a continuance of the rupture with America likely to destroy that trade? (loud cries of, It is! it is!) Is there any man who would deeply feel it, if he heard that the rupture was at length converted into open war? Is there a man present who would not be somewhat alarmed if he supposed that we should have another year without the American trade? Is there any one of nerves so hardy, as calmly to hear that our Government have given up all negociation—abandoned all hopes of speedy peace with America? Then I tell that man to brace up his nerves,—I bid you all be prepared to hear what touches you all equally. We are by this day's intelligence at war with America in good earnest,—our Government have at length issued letters of marque and reprisal against the United States! *(universal cries of, God help us! God help us!)* Aye, God help us! God of his infinite compassion take pity on us! God help and protect this poor town,—and this whole trading country!

Now, I ask you whether you will be represented in Parliament by the men who have brought this grievous calamity on your heads, or by those who have constantly opposed the mad career which was plunging us into it? Whether will you trust the revival of your trade—the restoration of your livelihood—to them who have destroyed it, or to me whose counsels, if followed in time, would have averted this unnatural war, and left Liverpool flourishing in opulence and peace? Make your choice,—for it lies with yourselves which of us shall be commissioned to bring back commerce and plenty,—they whose stubborn infatuation has chased those blessings away,—or we, who are only known to you as the strenuous enemies of their miserable policy, the fast friends of your best interests.

Gentlemen, I stand up in this contest against the

friends and followers of Mr. Pitt, or, as they partially designate him, the immortal statesman now no more. *Immortal* in the miseries of his devoted country! Immortal in the wounds of her bleeding liberties! Immortal in the cruel wars which sprang from his cold miscalculating ambition! Immortal in the intolerable taxes, the countless loads of debt which these wars have flung upon us—which the youngest man amongst us will not live to see the end of! Immortal in the triumphs of our enemies, and the ruin of our allies, the costly purchase of so much blood and treasure! Immortal in the afflictions of England, and the humiliation of her friends, through the whole results of his twenty years' reign, from the first rays of favour with which a delighted Court gilded his early apostacy, to the deadly glare which is at this instant cast upon his name by the burning metropolis of our last ally!* But may no such immortality ever fall to my lot—let me rather live innocent and inglorious; and when at last I cease to serve you, and to feel for your wrongs, may I have an humble monument in some nameless stone, to tell that beneath it there rests from his labours in your service, "*an enemy of the immortal statesman—a friend of peace and of the people.*"

Friends! you must now judge for yourselves, and act accordingly. Against us and against you stand those who call themselves the successors of that man. They are the heirs of his policy; and if not of his immortality too, it is only because their talents for the work of destruction are less transcendent than his. They are his surviving colleagues. His fury survives in them, if not his fire; and they partake of all his infatuated principles, if they have lost the genius that

* The news of the burning of Moscow had arrived by that day's post.

first made those principles triumphant. If you chuse them for your delegates, you know to what policy you lend your sanction—what men you exalt to power. Should you prefer me, your choice falls upon one who, if obscure and unambitious, will at least give his own age no reason to fear him, or posterity to curse him—one whose proudest ambition it is to be deemed the friend of Liberty and of Peace.

# SPEECHES

ON

# AGRICULTURAL AND MANUFACTURING

# DISTRESS,

DELIVERED IN THE HOUSE OF COMMONS,

1816, 1817.

# INTRODUCTION.

DISTRESSES OF THE COUNTRY IN 1816—METHOD OF SUCCESSFULLY SUPPORTING THE PEOPLE IN PARLIAMENT.

THE return of peace did not bring back prosperity to any portion of the inhabitants of this country. Whether it was that a war of twenty-three years duration had carried all the functions of the body politic to an unnatural state, only to be maintained by the stimulants which war supplies, in place of more wholesome support; or that the drains of the heavy expenditure, created by the hostilities carried on all over the globe, had exhausted our resources; or that the mere transition from one state to another, operated on the political system, giving it the sudden shock that a sudden relief from pain or from want would communicate to the natural frame; certain it is, that there had never during the whole contest just closed, been more general embarrassment felt, than

was suffered, first by the agricultural interest in 1816, and then by the manufacturing classes the year after. The relief obtained from the burden of eighteen millions, by the repeal of the income tax and war malt duties in 1816, however important, appeared to make but little impression upon the mass of distress; and men were heard in all directions regretting the change from war to peace, farmers wishing Napoleon back again, and merchants sighing for the times when no ships but our own could keep the sea. The country, therefore, had recourse to the Parliament, and approached both Houses, but especially that of their representatives, with numerous petitions, setting forth in moving terms, the calamities that had befallen all the industrious classes, and praying for some measures which might tend to their relief. These petitions were less numerous in 1816, because the meetings upon the Income Tax then engrossed the attention of the people; and its repeal was expected to relieve the distresses of the farmers. But in the following session, when the distress extended to the manufacturing classes, the petitions increased in number, and were directed in some instances by fallacious views, to extremely injudicious measures, the most numerously signed of them all having for its prayer the prohibition of exporting cotton twist, upon the notion that this encouraged foreign manufactures at the expense of our own. The course of petitioning had come of late years into great favour with the country, and it seems important to explain in what way this opinion arose.

In the long inquiry which occupied the House in

1812, respecting the Orders in Council, the efforts of the petitions against that policy had been attended with the most complete success. Although opposed by the whole weight of the government both in public and out of doors; although at first vigorously resisted by the energy, the acuteness, the activity, and the expertness, which made Mr. Perceval one of the best debaters of his day; although, after his death, the struggle was maintained by the father of the system with all his fire and with his full knowledge of the whole subject—nay, although the Ministry brought to bear upon the question, what is reckoned the most formidable engine that any government can set in motion against its adversaries in any single measure, the announcement that their official existence depended upon the result—yet had the country gained a signal and complete victory, and the favourite policy of the cabinet had been at once and entirely surrendered to the pressing instance of the Petitioners. When men came to consider how this battle had been gained, no doubt could remain in their minds as to the causes of success. It appeared clear that, as far as any thing was to be expected from the direct expression of the people's voice through their regular organs in Parliament, nothing could well be more desperate than the prospect of the Petitioners. But indirectly, the country could make its voice heard and its influence felt. It was roused extensively to the consideration of the question. Meetings were generally held, and many petitions came from them, while others proceeded from persons who signed them, without otherwise bearing a part in any public debates. The plan was now adopted by Mr. Brougham and Mr.

Baring, of promoting discussion on all fair occasions connected with the subject. The interlocutory debates arising from questions raised by the examination of the witnesses, provided many such opportunities. Motions for the production of papers and accounts added to their number; and each petition that came up from the country was made studiously, but very naturally, the subject of a conversation which often swelled into a long debate. The effects of this series of discussions, lasting for six or seven weeks, were prodigious. They strongly excited the country, and they communicated in their turn the influence of that excitement to the House itself. They brought the public feeling to bear directly upon the members who represented counties or towns, but they were not without their influence upon those who had no constituents at all. They were besides of the most signal use in promoting the most thorough and sifting examination of every part of the subject—bringing all statements of facts to the test of rigorous scrutiny—trying by the criterion of free debate, liberated from the fetters of mere form, the soundness of every position and conclusiveness of every reason—and making it quite impossible for sophistry to seek shelter behind vague assertion, or imbecile and fallacious argument to escape exposure behind the convenient screen of those parliamentary rules which govern more regular debates. Hardly an hour passed without detecting some false statement or illogical argument; hardly a night passed without gaining some convert to the cause of truth; and real representatives who could face their constituents, and borough members who had no dread of the county or of the society they lived in,

provided their support of the vicious and unpopular system were confined to a single vote by which its fate should be decided once for all, would no longer venture to hold out, during all the skirmishes and other movements that prepared the way for the great engagement, and they dreaded still more the endless remonstrances by letter and by conference of deputations, which they had to undergo while the matter hung in so lengthened a suspense, and the country was all the while exerting its activity to attain the common object. This battle, then, for the people, was fought by the joint efforts of themselves out of doors, and of their supporters in the House of Commons, and by the mutual action and reaction of the House and the people upon each other. It is a battle which may always be renewed, and is always of certain success on any ground naturally adapted to its movements; that is to say, wherever a great popular feeling can be excited and maintained, and wherever there are persons of firmness and spirit to set themselves at the head of the people, regardless of the frowns and the threats of power. It is equally certain that such a fight never can be fought, with any chance of success, where the people are indifferent to the subject, and where they have no leaders in Parliament adequate to the occasion.

The Session 1816 offered an example yet more remarkable of the same tactics being attended with equally signal success. On the termination of the war, the government were determined, instead of repealing the whole Income tax, which the act enforcing it declared to be "for and during the continuance of the

war and no longer," to retain one half of it, that is, to reduce it from ten to five per cent., and thus keep a revenue raised from this source of between seven and eight millions, instead of fifteen. As soon as this intention was announced, several meetings were held, and two or three petitions were presented. The Ministers perceived the risk they ran, if the former policy should be pursued, of continued discussion for a length of time; and they saw the vast importance of dispatch. Accordingly, the Chancellor of the Exchequer* gave notice on the Tuesday for his motion on the Thursday immediately following. The Opposition took the alarm, and Mr. Brougham declared, on presenting a petition numerously signed from one of the London parishes, that if the hurry now indicated should be persevered in, he should avail himself of all the means of delay afforded by the forms of the House. Lord Folkestone,† one of the most strenuous, and in those days one of the most active and powerful supporters of the popular cause, vigorously seconded this menace, in which he entirely joined. On the next day more petitions were flung in; more discussions took place, and the Government postponed for a week the introduction of the Bill. That week proved quite decisive; for so many meetings were held, and so many petitions sent up, that the Bill was put off from time to time, and did not finally make its appearance till the 17th of March. Above six weeks were almost entirely spent by the House of Commons in receiving the numberless petitions poured in from all quarters

* Mr. Vansittart. † Now Earl of Radnor.

against the tax. For it was speedily seen that the campaign of 1812 was renewed, and that the same leaders, Messrs. Brougham and Baring, had the management of the operations.

At first the Ministers pursued the course of obstinate silence. The Opposition debated each petition in vain; every minister and ministerial member held his peace. No arguments, no facts, no sarcasms, no taunts, could rouse them; no expression of the feelings of the country, no reference to the anxiety of particular constituencies, could draw a word from the Ministers and their supporters. At length it was perceived that their antagonists did not the less debate, and that consequently the scheme had failed in its purpose of stifling discussion. The only effect of it, then, was, that all the debating was on one side, and this both became hurtful to the Government in the House, and more hurtful still in the country. They were forced into discussion, therefore; and then began a scene of unexampled interest which lasted until the second reading of the Bill. Each night, at a little after four, commenced the series of debates which lasted until past midnight. These were of infinite variety. Arguments urged by different speakers; instances of oppression and hardship recounted; anecdotes of local suffering and personal inconvenience; accounts of the remarkable passages at different meetings; personal altercations interspersed with more general matter—all filled up the measure of the night's bill of fare; and all were so blended and so variegated, that no one ever perceived any hour thus spent to pass tediously away. Those not immediately con-

cerned, Peers, or persons belonging to neither House, flocked to the spectacle which each day presented. The interest excited out of doors kept pace with that of the spectators; and those who carried on these active operations shewed a vigour and constancy of purpose, an unwearied readiness for the combat, which astonished while it animated all beholders. It is recounted of this remarkable struggle, that one night towards the latter end of the period in question, when at a late hour, the House having been in debate from four o'clock, one speaker had resumed his seat, the whole members sitting upon one entire bench rose at once and addressed the chair,—a testimony of unabated spirit and unquenchable animation which drew forth the loudest cheers from all sides of the House.

At length came the 17th of March, the day appointed for the decision; but it was soon found that this had been, with the debate, wholly anticipated. The usual number of petitions, and even more, were poured thickly in during some hours; little or no debating took place upon them; unusual anxiety for the result of such long continued labour, and such lengthened excitement, kept all silent and in suspense; when, about eleven o'clock, Sir William Curtis, representing the City of London, proceeded up the House, bearing in his arms the petition, which he presented without any remark, of the great meeting of the Bankers and Merchants holden in the Egyptian Hall, and signed by Twelve Thousand persons. The division took place after a debate that did not last half an hour; no one could indeed be heard in an assembly so impatient for the decision;

and by a majority of thirty-seven voices, the tax was defeated for ever, and the wholesome principle, as Mr. Wilberforce well observed, was laid down, that war and income tax are wedded together.

The same display which led to such important and even glorious success the cause of the people, in an unreformed Parliament, is to the full as requisite now, and would produce, if possible, greater results. Neither Slavery, nor Limited Suffrage, nor Petty Constituencies, nor refusal of the Ballot would stand before it half a session. But unhappily it has seemed good to the Whig Government that they should adopt a course of proceeding which renders all the tactics of 1812 and 1816 impracticable. Forgetting what it was that raised them to power, the remote cause of the Tory downfall, the policy which produced all the triumphs of liberal opinions; forgetting, too, that though now in office, they may to-morrow be restored to that Opposition from which the triumphs of 1812 and 1816 raised them,—they have resolved that no petition shall now be discussed—that whoever presents it shall merely state its substance, after telling the body and the place it comes from—and that no other member shall make it the subject of any observation. To this plan for stifling the people's voice, and giving the Ministers of the day and their majority in Parliament an absolute controul over the policy of the empire, disarming the Opposition of their main weapons, and shearing the people of their chief strength, the Speaker, Mr. Abercromby, has unhappily lent the support of his authority, if he was not indeed the author of the scheme. It is of little moment to reflect that but for the

policy of former and better times, this distinguished and excellent person would now have been in the honourable but cheerless exile of an Edinburgh sinecure judgeship, as his ministerial coadjutors would have been doomed to exclusion from power on the benches of an eternal Opposition. It is of more importance to remark, that unless a speedy end is put to the present course of proceeding, the mainstay of English liberty, the only effectual safeguard against misgovernment and oppression, is taken from the people of these realms.

# SPEECH

ON THE

# DISTRESSED STATE OF AGRICULTURE,

DELIVERED IN THE HOUSE OF COMMONS,

APRIL 9, 1816.

# SPEECH.

Mr. Brogden; I feel very sensibly the disadvantages under which I rise to enter upon the discussion of this momentous subject; not only because I am in all respects so ill qualified to handle it successfully, but because a pretty general indisposition has been expressed by the House, to proceeding in the inquiry this night. Nevertheless, as I was one of those who objected to delay, and as I stated my readiness to go on with the debate, I am desirous of delivering my sentiments, such as they are, upon the present occasion, that I may lay before the Committee the ideas (whatever they may be worth) which I have gathered from an honest and patient attention to the subject matter of our investigation.

There is one branch of the argument which I shall pass over altogether, I mean the *amount* of the distresses which are now universally admitted to prevail over almost every part of the empire. Upon this topic all men are agreed; the statements connected with it are as unquestionable as they are afflicting; each day's experience since my honourable friend's motion* has added to their number and increased their force;

*Mr. (now Lord) Western.

and the petition from Cambridgeshire presented at an early part of this evening, has laid before you a fact, to which all the former expositions of distress afforded no parallel, that in one parish, every proprietor and tenant being ruined with a single exception, the whole poor rates of the parish thus wholly inhabited by paupers, are now paid by an individual, whose fortune, once ample, is thus swept entirely away. Of the nature and extent of the evil, then, it is quite superfluous to speak; I purpose, with your permission, to apply myself to the examination of its causes, and to such a view of the remedies or palliatives proposed, as may naturally be suggested by a consideration of those causes. Without entering somewhat at large into the origin of our present difficulties, I am afraid we shall be apt to go astray in our search after the means of relief.

A circumstance which must strike every observer who turns his attention toward this state of the country, is the comparative state of prices before and since the late war. In 1792, the average price of wheat was 47s. the quarter; now its price is 57s., almost 20 per cent. higher; and yet no complaint was ever heard of low prices before the war, nor were any of those signs of distress to be perceived, which in these times claim our pity in every part of the empire. This consideration is of itself sufficient to shew, that over-trading—that excess of cultivation is not the only cause of the evil we complain of; and may warn us against the error of imputing it to the operation of any one cause alone; for I am certainly disposed to rank the great extension of cultivation among the principal causes, or at least to regard it as lying near the foundation of the mischief. In attempting to unravel the difficulties of this question, I trust the Committee will believe me, when I say that I approach it, as I should the solution of a problem in

the mathematics, without the smallest taint of party feeling, and with no other view whatsoever than a desire to discover the truth, upon a question of great and universal concernment.

The first circumstance to which I would solicit the attention of the Committee, as lying at the root of the matter, is the progress of agriculture during the long period of the last war—I mean from the year 1792 downwards. The commencement of hostilities in 1793 produced the stagnation of trade and manufactures which usually accompanies a transition from peace to war; but these difficulties were of uncommon short duration, and the brilliant success of our arms at sea, the capture of some of the enemy's colonies, the revolt of others, and the crippled state of his mercantile resources at home, from internal confusion, speedily diminished his commerce in an extraordinary degree, augmenting our own in nearly the same proportion. As his conquests or influence extended over other nations possessed of trade or colonial establishments, these in their turn became exposed to our maritime hostility, and lost their commerce and their plantations; so that in a very short time this country obtained a mercantile and colonial monopoly altogether unprecedented, even in the most successful of her former wars. The consequence was, a sudden extension of our manufacturing industry and wealth; and a proportionate improvement in our agriculture. But although this effect began to be perceivable soon after the first successes of the war, it was not fully produced until a few years had elapsed, and a number of circumstances, in some measure accidental, happened to coincide with those which might more reasonably have been expected to occur during the course of the war, in promoting, I might almost say in forcing, the cultivation of the country. I should be disposed to take the ten years from 1797 to 1808, as

the period when all those circumstances, of what nature soever, concurred to produce the same effect. It will be worth the attention of the Committee to observe how singularly this period is filled with events, all tending one way, all bearing upon the extension of agriculture.

The French commerce and colonies had been previously destroyed; and in 1797, 1798, and 1799, those of Spain and Holland shared the same fate. About this time our monopoly might be said to have reached its height. But several accidental events now concurred with those results of the war, and influenced the progress of cultivation in a visible manner. The scarcity of wheat in 1796, and all sorts of grain in 1799 and 1800, raised the prices so much as to force a vast portion of land into cultivation. In 1797, and still more after 1800, lands were broken up which had never before known the plough, and many wastes were taken in, the tillage of which prudence would perhaps never have authorized. Somewhat of the same effect was thus produced which arose from the destruction of the principal French West Indian colonies early in the late war. The sudden diminution in the supply of sugar raised its price beyond all example, and occasioned a vast extent of new land to be cleared and planted, promoting at the same time the culture of the old plantations. The African slave trade, and the conquest of the Dutch, French, and Spanish settlements, with the consequent influx of British capital, facilitated the progress of West Indian agriculture, until, in the course of a few years, the blank created by the commotions at St. Domingo and Guadaloupe was much more than supplied; sugars fell as far below their ordinary price as they had lately risen above it; all West Indian proprietors were distressed, and many utterly ruined; the colonies, generally speaking, were in a state nearly

resembling the most suffering districts of the mother country at the present time; and relief was only afforded by the abandonment of many estates, chiefly such as were loaded with debts and consisted of inferior lands, the supply being thus restored to a level with the demand. I do not mention the cases as in all respects parallel, but they agree in many of their principal circumstances.

Together with the scarcities of 1796 and 1800, the financial and military operations of the war, concurred to raise the prices of agricultural produce. Those operations did not certainly create capital, or multiply the number of mouths for consuming food; but they collected capital in masses to be expended less economically in feeding a number of persons more carelessly than the same individuals would have been supported by part of the same capital, had it been left in the hands of private persons. I desire to be understood as casting no reflection upon the administration of the revenue appropriated to the demands of the war, because it is quite unnecessary at present to express my opinion upon this point. Every one must admit that a given sum in the hands of government, even of the most economical ministers, especially if allotted to meeting the various pressing exigencies of warfare, must be expended with much less care and parsimony than the same sums appropriated to the uses of private families under all the checks imposed by individual prudence. The tendency of such a national expenditure unquestionably is, to raise prices above their natural level for a time at least, and thus to force cultivation forward, although, in a long course of years, the same capital in the hands of the community would have been much more augmented, and would gradually and healthfully have increased the production of the country in a greater, but not in a

disproportionate degree. It is not, however, for its effect in stimulating agriculture that any man will be disposed to quarrel with the war and its expenditure. Had it no other sins to answer for, this might well be forgiven.

While the circumstances which I have mentioned were disposing men to extend the cultivation of the kingdom, an event occurred, which in its consequences mightily facilitated this operation. I allude to the stoppage of the Bank of England, in the early part of 1797. The alarm in which that extraordinary measure originated, very speedily subsided; and with the restoration of confidence, came a disposition to accommodate, on the part of bankers and other dealers in money and credit, wholly unexampled. The Bank of England soon increased its issues; and the numbers of country banks were every where augmented. In districts where no such establishment had ever before been known, they were to be found actively engaged in discounting and lending—and in issuing their own notes. In places too small to support a bank, there were agents appointed by Banks fixed at some distance: or a shopkeeper or tradesman, added to his usual and regular calling, the new employment of cashing bills and passing notes. It is true that the check which had now been removed from the great Bank in London, still operated to a certain extent upon the minor dealers in credit, thus scattered over the country; they were obliged to pay, if required, in Bank of England paper, although the issuers of that paper were not compelled to pay in specie. But this was rather a nominal than a real restraint; for if the holders of country bank paper could not obtain gold in exchange, they preferred coarse notes with the names of Mr. or Sir John such-a-one, whom they knew, to notes somewhat better engraved, but worth just as

little, and with the names of a governor and company and a Mr. Newland, whom they knew nothing about—so that the country banks enjoyed the same facility, with the bank in London, of increasing their issues; and they used it with much less reserve. Hence the unlimited accommodation which they afforded to farmers, and generally to all speculators in land. They assisted all adventurers more or less, but adventurers in land most of all, because they had better security to give, and were supposed to be engaged in a less hazardous line of trade. I must here repeat the remark I made upon the tendency of the war to promote cultivation. If the stoppage of the Bank had produced no worse effects than throwing dormant capital into circulation, and affording a stimulus to industry, especially to agriculture, I should have little to say against that measure—nay it might have been rather beneficial than hurtful, at least in this point of view, had the accommodation which it afforded been withdrawn more gradually, and at all events, not at the particular moment, when perhaps the state of things required it to be still farther extended.

Another circumstance to which I shall advert, also occurred within the period in question, between 1797 and 1808, I mean the great extension of our colonial possessions. The value of those establishments is, I believe, somewhat under-rated in this country; not that we are slow to parade their importance in several particulars—on the contrary we are prone to magnify them in our accounts of exports and imports, and of the quantity of tonnage, and the number of seamen employed in our trade; but we seldom, if ever, reflect on the vast effects produced by them upon the agriculture of the mother country. In promoting this, their wealth operates both through the channels of commerce and of remittances, almost as directly as the

riches of one district of this island expand themselves over and fertilize another less wealthy territory in its neighbourhood. The conquest and rapid cultivation of the Dutch colonies, to take the most remarkable instance, may be traced in its effects upon many a once barren tract of land in the northern parts of Great Britain, where by the names of the farms and of their occupiers you may be reminded of those lucrative speculations in Surinam, Demerara, and Berbice, to which the agriculture of the mother country owed these accessions.

The last circumstance I shall mention as falling within the same period, is the completion of our commercial and manufacturing monopoly, by the destruction of almost all other trade and peaceful industry, the final result of Buonaparte's continental and military system. In the end, indeed, we felt the effects of this prodigious attempt, as I shall presently have occasion to state; but for some time it only consummated the ruin of our competitors, and gave new resources to our seaport and manufacturing towns. The effects of this increase upon the industry of the country, at a period when men were singularly prone to farming speculations, cannot easily be overrated. We are apt to suppose the sphere of such influence much more contracted than it really is. If any one is desirous of perceiving how widely it extends, I think I can furnish him with a medium through which he may view it. When the measures of the enemy, which began with the Berlin and Milan Decrees, had, through the co-operation of our own Orders in Council, succeeded in crippling the trade of almost all our great towns, the distresses of the merchant and manufacturer affected not merely the farmer in his neighbourhood, but lowered the cattle and corn markets to a great distance, so that fat beasts were sold at very low

prices, one hundred, and even one hundred and fifty miles from the manufacturing districts in Lancashire and the West Riding of Yorkshire, in consequence of the distresses prevailing over those parts of the country. In like manner, it is evident that the earlier events of the war, which suddenly promoted the wealth of the great towns, tended as rapidly to augment the cultivation of even the remote provinces.

Now, Sir, having ascertained the existence of so many and such powerful causes, uniting their forces in one direction, during the period I have mentioned, and all tending manifestly to promote the agriculture of the country, some of them by tempting men to embark in farming concerns, others by furnishing them with the means of speculation, even if we do not take into the account such circumstances as the general progress of the arts and the depreciation in the value of the circulating medium, and the consequent rise in the money price of produce, which I am very far from underrating, but only pass over for the present as operating less exclusively upon the cultivation of land than the other circumstances which I have enumerated, I say even if these considerations are omitted, enough has been shown to prove that a start must have been made in the productive powers of this island, quite unexampled in any equal period of its former history. When, on the other hand, I reflect upon the nature of the causes which I have enumerated, and find that most of them are of sudden occurrence, and that their combination in the short space of about ten years was accidental; when, moreover, I perceive that the most material of them were of a temporary duration, and could not remain long to support the great cultivation which they had occasioned, I am disposed to think that I have got hold of a principle upon which something like an overtrading in agriculture, and a consequent redundance of

produce, may be inferred to have happened, how difficult soever it may be to ascertain the amount of this excess by any strict calculation. In truth I am little inclined to resort to estimates upon the present question; where circumstances are clearly proved to have existed, the natural operation of which plainly was such as I have described, it is unnecessary to seek among statistical returns for evidence of effects which we know must have been produced. I have heard of conjectures as to the number of acres enclosed, during the ten years I am referring to, in which there may have been 1200 Enclosure bills passed. Some of my honourable friends near me, I know, have estimated this amount at two millions, which I mention not so much from any reliance upon the accuracy of the statement, as out of respect for them, and because this admission is at variance with their own doctrine, that there has been no excessive cultivation. But it is evident that such an estimate, even if correct to an acre, would by no means shew the increase of production, for a good deal of the land enclosed by act of parliament was formerly cultivated in common field; and, on the other hand, the improvements in the cultivation of the old enclosures have probably done more to augment the whole agricultural produce, than all the new lands that have been taken in. If, however, we take the total amount, every thing included, to be equal to the produce of two millions of acres added to the former produce, and if it be true that the population has only increased two millions during the same period, there will appear to have been an increase of nearly six millions of quarters in the supply, and only an increase in the permanent demand, in the proportion of two millions. But, as I have already said, these estimates are not to be trusted either way, and I had much rather rest upon the broad principle furnished by a re-

ference to the known events in the history of the late war, down to the year 1808. The improvements in most parts of the country have been going on so visibly, that the most careless observer must have been struck by them. Not only wastes have disappeared for miles and miles, giving place to houses, fences, and crops; not only have even the most inconsiderable commons, the very village greens, and the little stripes of sward by the way side, been, in many places, subjected to division and exclusive ownership, and cut up into corn-fields in the rage for farming; not only have stubborn soils been forced to bear crops by mere weight of metal, by sinking money in the earth, as it has been called,—but the land that formerly grew something has been fatigued with labour, and loaded with capital, until it yielded much more; the work both of men and cattle has been economized, new skill has been applied, and a more dexterous combination of different kinds of husbandry been practised, until, without at all comprehending the waste lands wholly added to the productive territory of the island, it may be safely said, not perhaps that two blades of grass now grow where only one grew before, but I am sure, that five grow where four used to be; and that this kingdom which foreigners were wont to taunt as a mere manufacturing and trading country, inhabited by a shopkeeping nation, is in reality for its size, by far the greatest agricultural state in the world.

Previous to the year 1810 or 1811, no great effect appears to have been felt in the corn market from all this system of improvement. The measures taken to increase our produce had not begun fully to operate, and the new enclosures had not yielded their due returns. The crop of 1810 was not a very good one, and that of 1811 was extremely bad. But about 1812, when the new cultivation and the improvements in

farms generally, may be supposed to have produced their full effect, there began a series of events, some of them accidental and beyond human foresight to anticipate, others less strange perhaps in themselves, but in their union scarcely more to be expected, all operating in the same direction, and that direction the very opposite, as far as regards agriculture, to the line in which the no less unparalleled combination of circumstances already mentioned, had been operating in the preceding years. The harvest of 1812 was a very abundant one; that of 1813, I believe, exceeded any that had ever been known; and the crop of 1814 was not much inferior. But the political events of those three years had an influence still more important upon the markets. Here I must take leave to state how widely I differ with my honourable friend the member for Essex,* respecting the effects of the peace. In the able and luminous speech with which he introduced this subject to the House, and in which he shewed at once the greatest industry, talent, and moderation, he contended that the termination of hostilities could not be assigned as the cause of the depression in prices, because those prices had begun to fall during the war; and he observed in confirmation of his position, that after former treaties of peace, agricultural produce had risen. The facts upon which he relied when taken altogether, far from supporting his doctrine, furnish me with a satisfactory answer to it. After the peace of Paris, it is true, wheat rose from 36s. to 41s. the quarter, in 1763, and to 42s. 6d. on an average of five years, ending 1767. So, after the peace of Versailles, it rose 5s. the quarter. But the statements upon which my honourable friend relied, as decisive in his favour, were taken from the period in

* Mr. (now Lord) Western.

question, viz. the year 1813. In January of that year, the market price of wheat was 120s., and in November it had fallen to 75s. The victualling contracts of Portsmouth were made in January at 123s. 10d.; in November at 67s. 10d. Those of Plymouth, in February at 121s. 9d., in September at 86s. Those of Deptford, in February for flour per sack—at 100s. 3d., in November at 65s. Now I beg the committee's attention to these facts, because when coupled with the well known events of the year 1813, they clearly refute my honourable friend's argument, pretended to be built upon them. In January and February wheat and flour were high; in September they had fallen very considerably, owing, partly no doubt, to the very abundant harvest reaped during the interval, but in no small degree owing to the important change in public affairs, which had taken place during the same interval. The destruction of Bonaparte's grand army had been effected the winter before, and had laid the foundation of the deliverance of Europe, but that happy event had not been completed. The most gigantic enterprise which unprincipled force had ever attempted in modern times, had been defeated by a lucky concurrence of accidents with the violence that gave birth to the project; but much of its author's power still remained unbroken, and no man could foresee that the blind fury which had borne him into jeopardy, would still hurry him to ruin. At all events, a new and a desperate struggle was inevitable, and the great prize of peace on the one side, or universal empire on the other, was to be fought for once more, in the ensuing campaign. In the spring and summer of 1813, this battle was fought; and the enemy, after incredible efforts of gallantry and skill, was repulsed—but nothing more. Peace seemed considerably more probable, therefore, in September, than it had been in January; but it was not certain. The

improvement in our prospects, however, co-operated with the harvest, and prices were lowered from 122s. to 86s. Soon after this period came the decisive battle of Leipsic; peace was now certain, and all that remained to be settled was the terms upon which it should be made, and the degree of security which should attend it; for the struggle which followed could be said to decide nothing more. Accordingly, in the interval between September and November, prices had fallen from 86 to 68, in round numbers. Contractors could no longer expect the same terms when in all likelihood this was their last bidding. Government was not pressed as before, when its difficulties were so nearly at an end; and the market felt the effects not only of an extraordinary crop, but of the approaching times of peace, when the demands of government should be withdrawn, and the supplies of the continent poured in. No man who attends to these facts and dates can entertain a reasonable doubt that the fall of prices was in some degree connected with the approaching termination of the war.

In truth, Sir, it is impossible to overlook the tendency of such a change as the peace brought about in all the great markets of agricultural produce. A sudden diminution in the expenditure of Government, to the amount of above fifty millions, could not be effected without greatly deranging all markets, both for manutures and produce directly; and by affecting the markets for manufactures, it must also have influenced circuitously those in which the farmer is more immediately interested. To take only a few specimens of these effects: Can it be denied that the stoppage of the exportation of grain, provisions, and even forage, to the Peninsula, had an influence in lowering the prices of those articles at home? When orders are no longer given for clothing in Yorkshire,

and arms in Warwickshire, does the change which throws so many manufacturers out of employment produce no diminution in the demand for food, and no increase in the levy of parish rates? Look at the effects of the government retiring from the Irish provision market, now that three-fourths of the navy are dismantled. Beside the accounts from the sister kingdom, every gentleman connected with the north and west of England knows, that last summer and autumn the droves of Irish cattle poured through Liverpool, Bristol, and the Welsh ports, covered the roads for miles; and that the price of butchers meat, and the rents of grazing farms, which had till then kept up, notwithstanding the fall of grain and of corn lands, began to be sensibly affected. I state these circumstances with the more satisfaction because they are in their nature temporary, and we are led to a somewhat more comfortable prospect by the consideration, that whatever part of the present distresses is ascribable to the change from war to peace, may reasonably be expected to diminish every day, at least as soon as the results of the peace shall enable the general trade of the country to resume its natural and accustomed channels; and shall supply the blank occasioned directly and circuitously in the demands for produce, by the diminished expenditure of government.

The next circumstance to which I shall advert as materially operating against agriculture, is the distress in the commercial world during the latter years of the war. It is very certain that the effects of the fatal year 1810, continue to be felt at this day in the mercantile world. The foundations were then laid of many failures, which have only been delayed by the natural efforts of unfortunate men to ward off a blow they could not escape; efforts which it is impossible very harshly to blame, although undoubtedly the delay of the crash has in most instances only rendered it more pernicious to

creditors, and extended its effect more widely, occasioning, perhaps, several failures instead of one. The difficulties of 1812 are fresh in the recollection of the Committee, and are still working their effects in many parts of the country, although the repeal of the Orders in Council, by enabling us to export goods, which were all paid for to the amount of seven or eight millions, afforded a most seasonable and important relief, and enabled capitalists to lower their stock on hand in a great proportion. That stock, however, began to increase during the unhappy continuance of the American war; and the peace, unexpectedly made, in Europe, followed by the treaty with America, soon produced an effect to which I must request the serious attention of the Committee, because I believe its nature and extent are by no means well understood. After the cramped state in which the enemy's measures, and our own retaliation (as we termed it), had kept our trade for some years, when the events of spring 1814 suddenly opened the Continent, a rage for exporting goods of every kind burst forth, only to be explained by reflecting on the previous restrictions we had been labouring under, and only to be equalled (though not in extent), by some of the mercantile delusions connected with South American speculations. Every thing that could be shipped was sent off; all the capital that could be laid hold of was embarked. The frenzy, I can call it nothing less, after the experience of 1806 and 1810, descended to persons in the humblest circumstances, and the furthest removed, by their pursuits, from commercial cares. It may give the Committee some idea of this disease, if I state what I know to have happened in one or two places. Not only clerks and labourers, but menial servants, engaged the little sums which they had been laying up for a provision against old age and sickness; persons went round tempting them to adventure in the trade

to Holland, and Germany, and the Baltic; they risked their mite in the hopes of boundless profits; it went with the millions of the more regular traders: the bubble soon burst, like its predecessors of the South Sea, the Mississippi, and Buenos Ayres; English goods were selling for much less in Holland and the north of Europe, than in London and Manchester; in most places they were lying a dead weight without any sale at all; and either no returns whatever were received, or pounds came back for thousands that had gone forth. The great speculators broke; the middling ones lingered out a precarious existence, deprived of all means of continuing their dealings either at home or abroad; the poorer dupes of the delusion had lost their little hoards, and went upon the parish the next mishap that befel them; but the result of the whole has been much commercial distress—a caution now absolutely necessary in trying new adventures—a prodigious diminution in the demand for manufactures, and indirectly a serious defalcation in the effectual demand for the produce of land.

The peace with America has produced somewhat of a similar effect, though I am very far from placing the vast exports which it occasioned upon the same footing with those to the European market the year before; both because ultimately the Americans will pay, which the exhausted state of the Continent renders very unlikely; and because it was well worth while to incur a loss upon the first exportation, in order, by the glut, to stifle in the cradle those rising manufactures in the United States, which the war had forced into existence contrary to the natural course of things. But, in the meantime, the enormous amount of, I believe, eighteen millions worth of goods were exported to North America in one year; I am informed nearly sixteen millions went through the port of Liverpool alone; and, for a considerable part of this, no returns have been received,

while still more of it must have been selling at a very scanty profit. The immediate effect has been a sensible increase of the difficulties which I have already described as flowing from the unexpected opening of the European market in the impoverished and unsettled state of the Continent.

And now it was, when a general commercial distress began to prevail, that the consequences of our paper circulation, and the banking operations connected with it, not gradually as had been expected, but almost instantaneously developed themselves. Whether the change of measures, which I am about to mention as one of the principal, if not the very first cause of our present sufferings, began with the country banks, or the bank of England; whether it was the necessary consequence of the difficulties which were pressing upon trade, and which, at any rate, it mightily increased, or was the chief cause of those difficulties; whether or not blame is imputable to any persons, or bodies corporate, I will not stop to inquire, for it is wholly immaterial to the present investigation; and when I mention certain known facts in one order rather than another, I do so without intending to assert that they were connected together. The bank of England not very slowly limited its discounts, and diminished its issues of paper about three millions. At one period, indeed, the amount of notes in circulation had exceeded that to which they were now reduced, by six millions; but the average had been for some time about three millions higher. The country banks acting less upon system, and more under the influence of alarm, lessened their discounts in a much greater degree. A single failure would stop all such transactions over a whole district, and I could mention one large stoppage which made it difficult, for a length of time, to discount a bill anywhere in three or four counties. The persons who

felt this change most severely were of course those who had been speculating in any way, but above all others, speculators in land; those who had either purchased or improved beyond their actual means, upon the expectation of that credit and accommodation being continued, which had enabled them to commence their operations. Ordinary traders have much greater facilities in the money market; and their speculations are much more speedily terminated. The improver of land has to deal with property not easily convertible into money, and his adventures extend necessarily over a long course of years. Persons in this situation soon found their borrowed capital withdrawn; when the fall of produce made it difficult for them to pay the interest, they were suddenly called upon for the principal; they had gotten into a situation which no prudence could have enabled them to avoid, because it was the result of events which no sagacity could have foreseen; they had for many years been tempted to speculate by a facility of obtaining capital or credit, which in a month or two was utterly withdrawn; and before the least warning had been given, either by the course of events, or by the dealers in money and accommodation, a support was removed, which the most cautious of men might well have expected to be continued indefinitely, or at any rate to be gradually removed. I beg leave in illustration of this matter, to remind the Committee how those undertakings have been carried on, which I before described as extending so greatly the agriculture of the country. A man of small fortune, or a farmer making considerable profits by the high prices of the period I have so often alluded to, saw an opportunity of making a desirable purchase, upon an enclosure, or a sale in his neighbourhood. He had scraped together a couple of thousand pounds, perhaps; but the sum required for buying, and then improving the land, was

four or five. The banker supplied this difference, and by his accommodations enabled some middleman, trading in credit, to supply it, and the cultivator had every reason to hope he should, in a few years, be able to repay it, by the continued prosperity of farming concerns. At any rate he reckoned upon paying the interest and not being called upon for the principal, in security of which he probably deposited the title-deeds of his purchase as a pledge. The extension of cultivation caused by these very operations, together with the other circumstances to which I have referred, rapidly lowers the price of all produce; the alarm of money dealers begins to spread; hardly able to pay the interest, which is in reality a fourth more than it was while the currency was depreciated 25 per cent., he is called upon to pay up the principal itself; destitute of any thing that can be turned into money, he is fain to abandon his purchase, with all the improvements which his savings and his toil have made upon it; and the lender finds himself in hardly a better situation, without the means of obtaining payment, and with title-deeds in his hand, which he can turn to no account, unless he brings the land into the market. Now, the certainty of such a measure lowering its price prevents this step from being taken; and accordingly, great as the distress has been, very little land has been actually sold; not so much as ought to have been, is thrown out of cultivation; good money, to use the common expression, is thrown after bad; the money-dealer becomes, from necessity, a land-jobber; and the distress continues pushing its shoots in all directions, round the whole circle of trade, until, by re-action, the farmer suffers again indirectly, and the total amount of suffering is, if I may so speak, augmented by its universality, and the connexion of its parts. Nor should I be at all surprised, if things were to grow worse be-

fore they got better; at least I am very certain that the price of land will be lower before it is higher, from the undoubted fact of many sales that must take place having been delayed as long as possible, in the vain hope of the necessity being evaded.

In referring to the state of credit and circulation, I have purposely avoided dwelling upon the great evils that have resulted from the fluctuations in the value of the currency, not because I underrate them, but because they only affect one class of sufferers from the present distress, I mean those who have made bargains or formed calculations for time; such as persons taking long leases, or borrowing money at a fixed rate of interest, or speculating upon making sales at a future period. Of these classes I shall say a word or two by-and-bye. But there is a circumstance affecting all classes, and of which it is quite impossible to exaggerate the importance, in accounting for the changes that have recently afflicted the agriculture of the kingdom—I mean the state of our finances, the complete revolution which the last twenty-five years have effected in the revenue and expenditure of the country.

During that period our revenue has increased from fifteen to about sixty-six millions; our expenditure in one year exceeded one hundred and twenty-five millions; this year of peace it is to be above seventy-two millions, and no hopes are held out of its being permanently below sixty-five. That such a prodigious change could be wrought in the system of taxation and of public credit, without seriously affecting the landed interest, from which so large a proportion of the taxes is drawn, no man will for a moment suppose. But I believe few have formed to themselves distinct ideas of the manner in which excessive taxation has been operating on agriculture, and very inadequate notions are, I am sure, entertained of the amount of that operation.

It is not, indeed, very easy to trace it; and to estimate precisely how much of the pressure falls exclusively upon the cultivator would be impossible. But I shall take the liberty of submitting to you such means of approximation as I have been able to find, aware of the justice of an observation made this night by the member for Surrey,* that by communicating freely the ideas which have struck each of us upon this great question, we may hope for mutual correction and instruction.

I shall suppose a farm of 400 acres of fair good land, yielding a rent of from L.500 to L.600 a-year, managed according to the husbandry practised in the northern counties, with which only I can profess any particular acquaintance. It will require for a four years' course, 200 acres being in corn, 100 fallow, and 100 in hay and grass, fourteen plough horses; and supposing a saddle horse, and a servant, and a dog to be paid for, with a farm-house of twelve windows, the assessed taxes will amount to L.22, 8s. a-year. This is a clear addition to the expenses of 1792, with which I am making the comparison. I pass over the income tax, as not peculiar to farmers, though it has been peculiarly oppressive to them, wherever the estimated exceeded the real profits. But the principal increase of expense has been upon the labour. The wages of the nine regular men servants who must be employed, have risen since 1792, from L.30 to L.50 each, but I will put the rise only at L.15, making in the whole L.135. Beside this, we must allow for the rise in the day labour required in spring and fall. Upon the 200 acres in corn, this will amount to a rise from 10s. an acre to 15s., or L.50 in all; upon the other 100 acres in hay and grass, the rise will be from 5s. an acre to 7s. 6d., and the same upon the 100 acres of fallow,

* Mr. H. Sumner.

making an addition of L.25, or L.75 for the whole increase upon day labour. Two women servants must be allowed,—and their wages are more increased in proportion than those of men, principally, I believe, from the unwillingness of farmers' wives and daughters to work as they used to do before the more flourishing times; but take the rise on this head only at L.10—and we have the total increase on labour L.220. Blacksmiths' and carpenters' bills have in like manner been raised, certainly not less than L.15 each upon such a farm as I am supposing; and the rise on saddlers' bills cannot be estimated at less than L.10, making upon these bills a rise of L.40, which, added to the former heads, gives the total increase in the expenses of cultivating such a farm, as equal to L.282, 8s., independent of the great rise on lime and all sorts of manure.

Now, I admit that we have no right to set down the whole or nearly the whole of this large sum to the taxes which have been imposed since 1792, but a great part of it manifestly does arise from those taxes. Whatever part arises from the increased prices of grain and other provisions may be deducted, and will fall again with those prices. Whatever remains must be ascribed to the taxes chiefly. Above L.22 of the sum comes from direct taxation. At least one-half of the rise on the saddlers' bills, or L.5 more, is owing to the same cause. But a considerable proportion of the grand item of labour is imputable to the taxes also. For let us only reflect on the nature of the duties which have been imposed. Many of them affect articles of prime necessity, as soap, salt, leather, and candles, all of which are ranked among necessaries of life by the writers on these subjects, and, what is a better authority, are felt to be such by the consumers; taxes upon all of which are allowed by those writers to affect directly the price of labour. Now the tax on leather has been doubled

within the last four years, being raised from three halfpence, at which it stood before the war—[Here the Chancellor of the Exchequer said across the table, "And ever since the reign of Queen Anne"]—to threepence, the present duty. The duty on salt, which in 1782, and I believe up to 1792, was only 10d. a bushel, had been raised previous to 1806, to 15s., the present duty. And candles have in the same period been taxed considerably. But these articles are not the only ones which may be reckoned necessaries, and are subjected to additional duties. In most parts of England, beer is to be classed in this list, from the universal custom of drinking it which prevails, and the duties upon it most seriously affect the farmer as a consumer of it, besides their pernicious tendency against his interest as a grower. The duty on malt has been raised from 10s. 7d. per quarter to 34s. 8d., of which 16s. is war duty; that on beer since 1802 has been increased from 5s. 7½d. per barrel to 9s. 7¼d., or about 4s., while that on spirits has been raised since 1792 from 7d. to 1s. 9d. per gallon, or 1s. 2d. additional. The total revenue collected from these duties is L.12,350,000, by which the land suffers directly in proportion to the whole amount, and indirectly in proportion as its cultivators are consumers of the manufactured article. But the price of agricultural labour is affected likewise by the duties of custom on many imported goods, which long habit has rendered scarcely less essential than some which I have enumerated as articles of first necessity. Of this class is sugar, upon which the heaviest taxes known in the history of finance, are laid. I believe, indeed, there are many persons who would rather go without soap than sugar; and this is now subject to a duty of 30s. per cwt., instead of 15s., at which it was taxed before 1793. It must also be observed that whatever prohibiting or protecting duties

have been laid upon foreign manufactures of articles used in clothing, these fall directly upon the labourer, and in so much tend to raise his wages, for the benefit, not certainly of the farmer, but the manufacturer. It is therefore evident that much of the augmentation in the expense of working a farm, a considerable portion of the sum of L.220, which I have stated to have been added since 1792 to that large branch of a farmer's expenditure, is chargeable to the taxes; and a portion also of the sum of L.35, the part of the rise in the carpenter's and other bills not directly affected by taxes, must also be charged to the same account. It is impossible to state with any degree of accuracy what the total amount of the increase of taxation has been upon these items; but that it must have been considerable, no one can reasonably doubt; and I beg to warn gentlemen against underrating it, from the fall in the rate of wages that has lately taken place. Labour has indeed come down, and in my opinion, a good deal more than was to be wished, I mean a good deal more than the fall of other prices justified. This fall must have resulted from the general distress of the country, and the number of hands in consequence everywhere thrown out of employment; but it is no sort of proof that the present is the natural and healthy state of wages; or that they will long remain so low; or that the fall in the price of provisions has permanently reduced wages to their level before the war; and therefore it is no kind of evidence that the increase in the expense of cultivation has arisen from the rise in prices alone, and not also from the increase of taxation.

But it may be said that the taxes have not fallen exclusively upon the farmer, and that he only suffers in common with the rest of the country. Now, to this I shall offer, I think, the most satisfactory answers. It must be remembered, in the first place, that part of

the taxes fall directly and exclusively upon the landed interest. Some of the assessed taxes, and the enormous malt, beer, and spirit duties are clearly of this description. But next, observe how differently the farmer is circumstanced in these times from the other parts of the community, with respect to the rise in wages, produced partly by the taxes. The commodity in which he deals is on the decline in point of price from over-cultivation; he cannot, therefore, throw the tax upon the consumer. If manufactured goods are in high demand, the customer pays the duties to which the manufacturer may be subject, either directly or indirectly by the rise in wages caused by those taxes. If those goods are falling in price, the tax presses upon the manufacturer himself. Now this is, and for some time past has been, in a peculiar manner, the state of the farmer, who indeed never has the means of suddenly accommodating the supply of his commodity to the demand, with the nicety and dispatch observable in the operations of trade. But, a still more material circumstance distinguishes the situation of the farmer from that of the manufacturer, relieving the latter at the expense of the former. I allude to the state of the law, which throws upon the land the whole burthen of maintaining the poor, and reduces the price of all labour below its natural level, at the sole expense of the cultivator. It is well known to the committee, that whatever may have been the intention of the legislature, (and the meaning of the statute of Elizabeth is sufficiently plain,) yet, from the defect in the powers of the act, the money raised for the support of the poor is paid entirely by the land. Persons in trade only pay in so far as they are also owners of real property. Thus a manufacturer who is deriving ten or twelve thousand a-year from his trade, is rated as if he only had a large building worth four or five

hundred a-year beside his dwelling-house, while his neighbour, who possesses a farm of the same yearly value pays as much; that is, the man of ten thousand a-year in trade, pays no more than the man of five hundred a-year in land. Yet, only observe the difference between the two in their relation to labour and to the poor. The farmer employs a few hands—the manufacturer a whole colony; the farmer causes no material augmentation in the number of paupers—the manufacturer multiplies paupers by wholesale; the one supports—the other makes paupers, manufacturing them just as certainly, and in something of the same proportion as he manufactures goods. The inequality of this distribution is plain enough, but I am now speaking of it in its relation chiefly to the subject of wages. From the abuse of the poor laws, it has become the prevailing practice to support by parish relief, not merely persons who are disabled from working by disease or age, but those who, though in health, cannot earn enough to maintain them; and, by a short-sighted policy wholly unaccountable, the custom has spread very widely of keeping down the wages of labour by the application of the poor-rates, as if any thing could equal the folly of paying rates rather than hire; of parting with the disposition of your own money, and of paying for labour, not in proportion to your own demand for that labour, but in proportion to some general average of the district you chance to live in. I pass over the inevitable effect of this arrangement in raising the total amount of the sums paid for labour, and in throwing upon one farm the expenses of cultivating another less favourably circumstanced; it is enough for my present purpose to remark, that the whole effect of the system is to make the land pay a sum yearly, levied in the most unequal manner, applied in the least economical way, for the purpose of lowering

the wages generally, and lowering the wages of manufacturing as well as agricultural labour. From this unquestionable position I draw two inferences, I think equally undeniable, and bearing directly upon the subject of our present inquiry;—the one is, that the effects of taxation in raising the price of labour are not distributed equally over all classes of the community, but fall exclusively upon the land, the land paying for the rise which the taxes have occasioned, both in agricultural labour, and in all other kinds of work—the other is, that, even if the fall in the price of provisions should apparently restore wages permanently to their former level, the real rate of wages would still be raised, and the real cost of cultivation be augmented, unless the poor rates also were brought back to their former amount. The sum now levied upon the land for this purpose, exceeds eight millions. Before the American war, it was less than two. I think I have said enough to show how immediately, how severely, how exclusively, the rise in the taxes from fifteen to sixty-six millions has pressed upon agriculture; how impossible it is to expect substantial relief as long as that pressure continues.

I have now, Sir, I fear at a very unreasonable length, gone through the causes which appear to have co-operated in producing our present distresses; and I come at last to a consideration of the means by which the evil may be remedied, or at least rendered supportable. In entering upon this part of the subject, I feel sensibly the delicacy of the ground I am going to tread. No one ought, without the most serious examination of it, to venture an opinion which (from the respect paid to our deliberations in this place), may have a material influence upon the fortunes of individuals, and, at any rate, may agitate their hopes and fears in a crisis of such general solicitude. I wish, therefore, to state no-

thing that has not been suggested to my mind by very mature and anxious deliberation; but, whatever may appear justified by such research, I think it my duty to propound, without the smallest regard to personal considerations, or to the prejudices that may prevail in any quarter.

And, first, I am afraid there is one class of persons who can hardly expect effectual relief from any measures, or from any supposable change of times; I mean those who have been trading largely in land upon borrowed capital. They have speculated upon a continuance of extravagant prices, and the fund is, in all likelihood, gone for ever, out of which their debts were to have been repaid. The fall in the market price of bullion is of itself a severe loss to such adventurers; they have still to pay in money as before, when every hundred pounds is really worth one hundred and twenty-five; they have to pay as much money to their creditors as formerly, and they can only receive three-fourths as much from their customers. I would fain hope, however, that such is not the situation of the great bulk of proprietors, to whom, perhaps, a permanent relief (and even to the speculator a palliative) may possibly be found. Those who have been expending large sums on bad land are in the worst state, and I fear that a good deal which ought never to have been cultivated at all, must be abandoned, and much grass land that should not have been broken up, must be laid down again as well as circumstances will permit, unquestionably at a great loss. The lowering of rents, which has pretty generally taken place, can hardly be reckoned any considerable relief, if other circumstances remain the same. It is a severe loss to the landlord, a loss which he sustains alone of all who have made time bargains; for no one hears of mortgagees or other creditors giving up twenty-five per cent., either on principal

or interest, because the value of money has risen in that proportion; but to the tenant it affords a very inadequate relief, for he is complaining of a fall in the price of his gross produce, of above three pounds an acre, (supposing the produce to be three quarters of wheat per acre), and all that the landlord can do for him is to take off five shillings an acre, leaving him to struggle against a loss of fifty-five shillings. But I shall now beg the attention of the Committee to the different measures which have been proposed, and in discussing these, as well as in submitting others to your consideration, I shall be guided by the view which I have taken of the nature and causes of the evil.

The first of these remedies, in point of importance as well as of time, is the Corn Bill of last session. Although that measure is no longer a matter of discussion, yet as I had not the honour of a seat in this house either when my Honourable friend* brought forward the bill of 1804, or when he raised the importation price last year from 63s. 6d. to 80s. I deem it more fair not to avoid the topic, but to state my opinion frankly upon its merits, the more especially as it has been the object of very strong disapprobation in many parts of the country. I certainly am disposed to think favourably of it, although I am well aware how diffidently it becomes us to speak upon a measure which has divided so widely the ablest men, both in parliament and out of doors, marshalling in almost equally formidable array on the opposite sides of the dispute, the statesmen and the political authors,† whose opinions upon such a subject are the most entitled to respect. As it is impossible, however, upon such a controversy not to oppose great authorities, so it is

* Mr. Western.

† See on the one side, Mr. Malthus's excellent tracts—and, on the other, the very able discussion of the corn bill of 1804, by Mr. Mill.

some comfort that, for the same reason, one has the support also of eminent names; and this emboldens me in stating, that I conceive the measure to be politic, at the least, as a palliative, or as affording the means of carrying the country through difficulties, the greatest pressure of which we may hope will only prove temporary. But then, I can by no means excuse the language of those who deride it merely because it is temporary, or, as they term it, an expedient. If it enables us to get over the existing evils, arising, in great part, from a transition to a new state of things, it does a great permanent good; it saves much valuable capital from being totally lost, much skill and labour already bestowed, from being thrown away; and it may thus, even where it fails in affording entire relief, be most important as preventing entire ruin. A measure of this description is only in name one of a temporary nature; its operation is solid and lasting. I pass over its tending to secure a constant and certain supply of food to the community; I am speaking of it merely as a measure calculated for the relief of the agricultural interests, and of all the branches of trade immediately dependent upon them. In the same light may be regarded the extension of the measure to some other kinds of agricultural produce, which is at present before parliament.

But I own I view, in a very different light, my Honourable friend's propositions respecting Bounties upon the Exportation of corn. To pass over every other objection to such a plan, if there be any truth in the positions which I think I have established, that the principal causes of our distresses are the too rapid extension of cultivation, and the intolerable weight of the taxes; surely it follows inevitably that to force exportation by a bounty, would only perpetuate the one of these causes, and increase the other. Indeed, I marvel

that my Honourable friend could have thought of such a measure in times like the present. Why, its very essence is taxation, and to a vast amount—taxation upon the people of this country to make us sell corn cheap to foreigners—taxation upon the land already oppressed with burthens. And how are such new sums to be levied? We have got rid of the income tax—that is some relief to the farmer. Does my Honourable friend wish this burthen to be once more imposed for the relief of agriculture? Or, does he peradventure desire to see the malt tax again raised from 14s. to 30s. in order to encourage the production of grain? All that has ever been paid in bounties formerly, is a trifle compared with the sums which this new scheme would require. In 1814, for instance, the last year for which we have the return, the whole of the bounties paid by government did not exceed L.206,800—a sum, in all probability, very injudiciously bestowed, but still not very ruinous in its amount. A corn bounty, when wheat is selling, perhaps 20s. a quarter higher in this country than in the foreign markets, would cost a million for every million of quarters taken out of the home market: and each effect produced by this forced exportation, in raising the price at home, would render the exportation more costly.

But nothing, in my humble opinion, can be worse founded than another remedy suggested by my Honourable friend; I mean the exclusion of foreign corn from our warehouses, and the encouragement to store our own grain in the public repositories. Have farmers no barn yards or granaries of their own, in which they can keep their corn until the market is favourable? Are the crops in greater danger of rats there than in the king's warehouses? But it is pretended that foreign corn is at present imported, and fills the public granaries, ready to be poured out the instant that the

Gazette gives the signal, by declaring the average to be 80s. for the last six weeks; and my Honourable friend considers that if the permission thus to warehouse foreign grain were withdrawn, no such effect could be produced. Now, I will suffer myself to be devoured by the vermin I have been talking of, if I do not, in a few minutes, shew my Honourable friend himself, the fallacy of this argument. Does he think that merchants wait for the Gazette to learn the price during any period of six weeks? Are they ignorant of the weekly and daily state of the markets? Do they not know at any moment of any six weeks how the prices are running, and can they form no guess, as the six weeks elapse, of the average at which the Gazette return is likely to state them? Why, the corn merchant does not even wait until a harvest is ripe before he commences his calculations, in order to form his plans of importation. I happen to know a little of this branch of trade, and I can inform my Honourable friend, that there are emissaries sent round the country while the grain is in the ear, to collect samples, which are sifted out and measured and weighed, in order to obtain data upon which the goodness of the crop, its yield, may be estimated, long before a sickle has glanced among the stalks. While my Honourable friend is sitting in his study, forming plans upon the supposition that those corn-merchants will wait for the periodical promulgation of the average by the King's printer, they are actually in his fields, committing an innocent trespass, to obtain the earliest information of the next crop as the groundwork of their speculations; and upon this knowledge they speedily begin to act. If the permission to warehouse is withheld, they still must act upon the rise of the markets, and the only difference will be, that, instead of collecting the grain on this side of the water, they will have it on the other, to the benefit of foreign

merchants, agents, and warehousemen, but just as ready to be poured in as if it were in our own ports. Indeed, any one must be sensible, after a moment's consideration, that nothing but a confident expectation of the price approaching to 80s. could induce merchants to bring over their cargoes and lodge them in this country, when they know, that until it reaches that point, all the expenses of the importation are incurred for nothing. Whether the voyage is made before or after the day on which the Gazette declares that point to have been attained, must obviously be a matter of perfect indifference; and it is the only thing which the permission or prohibition of warehousing can effect.

The alteration suggested in the Laws relating to Wool, appears to me in a very different light. I had the honour of broaching this important subject on the first day of the session, and every thing that has since come to my knowledge confirms the opinion I then ventured to express. As a committee has been appointed this night to investigate the question, at the suggestion of my Honourable friend,* who has thrown so much light on the whole matter now under discussion, I shall abstain from going into it at length; but I must beg to press upon your attention how greatly the agricultural interests are concerned in it. The most important relief has been afforded to many parts of the country by the good prices which wool has borne during the depression of almost all other produce: I allude especially to the long coarse wool, the ancient and peculiar staple of this island. Ten years ago it was from 9d. to 1s. the pound; now it is 21d., and it was recently as high as 2s. This article is the growth, and has, during the bad times, formed the support of Lincolnshire and the mid-

* Mr. Frankland Lewis.

land counties. Further northwards we have principally the coarse wool from the black-faced sheep. This is grown in the northern counties, and as far as Edinburgh: it used to be 7d. or 8d., and is now 14d. or 15d. the pound. The relief afforded by such prices is not confined to the wool-grower; it extends to all other agriculturists in his neighbourhood; because whatever saves a farmer from distress or ruin upon the general balancing of his accounts, keeps him from glutting the market with his produce or stock, and prevents the general market of agricultural produce from being depressed. In like manner, the support of the wool districts has extended relief to the other districts, and has produced a favourable effect upon the whole markets of the country, rendering the pressure of the general distress considerably lighter than it would have been had the woolgrower been in the same predicament with all other agriculturists. There is every reason, however, to apprehend, that this article also is on the decline: it has actually fallen within the last three months, and would certainly fall much more rapidly, but for the large orders now in the market in consequence of extensive contracts for clothing foreign troops. I have heard of one contract for the uniforms of 150,000 men, which must raise the demand for the wool immediately used in that manufacture. In these circumstances, and indeed at any time, it seems to be a most unwise policy, as far as regards our agriculture, to prohibit the exportation of wool. The finer sort would in all probability find no market abroad, and a permission to export it would therefore have no effect either way; but for the coarse, especially the long wool, there must always be a great demand, as it is absolutely necessary to certain manufactures, and is at present peculiar to this island. It well deserves the attention of the committee, whether the pro-

hibiting laws should not be repealed, which compel the wool grower to sell his commodity at home, in order that the manufacturer may work it, and the consumer may wear it, much cheaper than they would if the farmer had the choice of his market. The establishment of a free trade would not raise the price above its present standard, nor in all likelihood would it prevent some further fall, but it would at least guard us against the great depression which may now be apprehended. These are points, however, well worthy of inquiry, and I look to the labours of the committee appointed to-night, for much information upon them.

But the most material subject for our consideration, consistently with the view which I have taken of the present distress, is manifestly the burdens peculiarly affecting land; and these are the Tithes, Parish Rates, and General Taxes. Upon the subject of Tithes, I have much to submit to your notice, as it has long and anxiously engaged my attention; but it seems not to be peculiarly connected with our present inquiry, as tithe rather affects the expenditure of capital in improvements, and this is certainly not the predicament of almost any person in these times. I am desirous therefore of deferring to another opportunity the observations which I have to make on the plans of commutation proposed by different gentlemen, particularly by my Honourable friend the member for Hertfordshire,* as well as another method not yet suggested, by which I feel assured an arrangement of this important matter might be made with great facility and safety. The subject of the Poor-rates, however, is one which, in an especial manner, presses for discussion; and I am confident that every one who may have honoured with his attention the observations which I have submitted to

* Mr. Brand.

you, will perceive how essential some revision of the system is to the welfare of agriculture.

It is clear that the exclusive pressure of parish rates upon the land, was never in contemplation of the legislature; but as the 43d of Elizabeth, whatever it may enact with respect to the persons who shall pay, furnishes no means of obtaining payment in proportion to the profits of trade and professions, the law, if unaltered, must continue to throw the whole burthen upon the land-owner. In addition to this he has to support almost all the public works, as roads, bridges, and churches, in which he is no more interested than the other members of the community. They are made originally at his expense, and kept in repair by him; and, although the rest of the country refunds a part of the money originally advanced, yet, every one knows, how seldom this is adequate to his repayment—while the repairs, constantly required, are a certain loss to him. At present, however, I am speaking chiefly of the poor-rates. The deviation, in some measure necessary, from the intent of the statute of Elizabeth, as to the class who shall pay them, is not more fatal to the interest of the land-owner, than the perversion of that law, without any such excuse, to the support of all poor persons, whether capable or incapable of work, and the supply of money to those who earn what are deemed inadequate gains. I confess that I see but one radical cure for the state into which this last abuse has thrown the country, and which is daily growing worse, deranging its whole economy, debasing its national character. The inequality of the system may be remedied; at least, I would fain hope that some method might be devised, without having recourse to the odious machinery of the income tax, for making the other property bear its share with the land in defraying the expense which should fall equally on all income, if it is to

be compulsory upon any. But though great relief may thus be obtained, the worst vices of the system are deeper seated, and admit, I fear, but of one cure. As the law is now administered, under the influence of the habits which have unfortunately grown up with the abuse of it, the lower orders look to parish relief, no longer with dread or shame; but they regard it as a fund out of which their wants may at all times be supplied. To say nothing of the effects of this feeling upon their habits of industry and economy; to pass over its fatal influence on their character, and especially on their spirit of independence; only observe how it removes all check upon imprudent marriages, and tends to multiply the number of the people beyond the means of subsistence—that is, to multiply the numbers of the poor. A young couple who feel inclined to marry, never think, now-a-days, of waiting until they can afford it, until they have a prospect of being able to support a family. They hardly consider whether they are able to support themselves. They know that whatever deficit may arise in their means, the parish must make up; and they take into their account the relief derivable from this source, as confidently and with as little repugnance as if it were a part of their inheritance. It is truly painful to reflect, that our peasantry who, some time ago, used to regard such a supply with dread—used to couple every notion of ruin, misery, and even degradation with the thought of coming upon the parish— should now be accustoming themselves to receive relief almost as if it were a regular part of their wages. I can see but one effectual remedy for this great and growing evil; it is the one which follows so immediately from the principles unfolded in Mr. Malthus's celebrated work. It might be objectionable, on many grounds, to withhold relief from the future issue of marriages already contracted; but

why may not such relief be refused to the children born of marriages to be contracted after a certain period? An exception might perhaps be made in favour of those who are incapable of working from age, or other infirmity, though I know not that it would be better to make their claims a matter of right than an appeal to charitable assistance. But persons able to work, and the issue of marriages had after the law is changed, should certainly be excluded. This change would not operate an immediate reform of the system, but the reform would be a perfectly sure one, and it would commence almost as soon as the law passed. If any gentleman is scared at so great an innovation, I will only ask him to survey the enormous amount and odious nature of the evil complained of, and to make his choice between the expedient suggested, and the mischief so severely felt, not, indeed, as it at present exists, but in the still greater extent towards which it is daily hastening.

The next point to which I shall beg the attention of the Committee, is the means of relieving the land, and indeed the country in general, from the pressure of taxation, which I have shown to have so great a share in the present distresses. That such relief is within our reach, to a very great extent, I hold to be perfectly manifest. The whole sums applicable to the Sinking Fund for the last year amount to L.15,627,000, and including the Irish debt, L.16,928,000. Of this the financial operations of 1808 and 1813, have appropriated L.4,302,000; there remains undisposed of L.12,626,000, and the sinking fund on the Austrian and Portuguese loans is L.124,000, which makes the whole unapplied fund L.12,750,000. Now, of this large revenue, L.6,479,000 arises from the one per cent. upon all loans contracted since 1793. It may be thought consistent with good faith to preserve this portion of the fund

entire; and before such a plan as I am now suggesting could begin to operate, it would amount to about six millions and a half. The remaining part of the fund, including the annual grants, and the interest of the other redeemed stock, amounting to L.6,271,000, or at the period in question, to about L.6,300,000, might, I will venture to say, not only without detriment, but with advantage to the credit of the country, be applied to its relief in the remission of the most oppressive taxes. If a sinking fund of six millions and a half is left, operating at a time when there are no new loans, it will produce a far greater effect in the stock market than the whole fund has ever done during war, when much more stock was constantly poured in than the commissioners could redeem. Indeed, this is too large a fund to remain so applied in time of peace, and could only be justified by the notion prevailing in some most respectable quarters, that good faith towards the lenders, since 1792, requires the one per cent. to be left untouched. But for preserving the other six millions and a quarter, no pretext can be urged, especially after the inroads already made upon the fund during war, which have destroyed all idea of its inviolability, in the minds of those who held it sacred. The prospect of the vast benefits which might be conferred on the country by such an arrangement, is so dazzling that I am afraid to trust myself with painting it. Only let the Committee reflect for a moment upon the taxes which might be instantly repealed, supposing always that our expenses have been by retrenchment brought within our present revenue. The taxes that press most upon agriculture—those on leather, husbandry-horses, and malt, might at once be done away. The most oppressive of the assessed taxes might also be repealed. The bad gains of the lottery, by which money is raised directly at the expense of public morals, might be aban-

doned. In short, we should have the pleasing task, during the remainder of this session, of inquiring what taxes pressed most severely upon the people, or were most pernicious in their effects, and of lightening the burthen to the extent of between six and seven millions. As the remaining part of the Sinking Fund increased, further relief might, from time to time, be afforded; for surely it never could be in the contemplation of any one who understood the public economy of the country, in its trading as well as financial concerns, that the whole amount of the taxes required by the existing debt should be repealed at once, and the transition made suddenly from a levy of forty-two millions a-year to no levy at all. Nor could any friend to the stability of the Constitution wish to see the executive government for any period, how short soever, possessed of that enormous income unappropriated to any service. But they who tell us that the Sinking Fund is sacred, or rather that it has, since 1813, become sacred—who will not hear of any proposition for gradually reducing it—whom nothing will satisfy but a rise of stocks in a few months to par, the repayment of L.100 for every L.50 or L.55 that we have borrowed, and the continuance of all our heavy burthens until the moment when they may all cease together—those persons must surely be prepared either to show that the taxes now paying for the benefit of their posterity, are unconnected with the distresses of the present age, or to produce some other means of relieving their country. The question is now at issue between the stock-holder and all the rest of the community, and it is for the Committee to say whether they will, at all hazards and costs, take his part, or listen to the only imaginable means of effectually remedying the most crying of the evils we are labouring under.

Before I sit down, Sir, I must advert to the great

importance of keeping a most watchful eye over the mercantile and manufacturing interests of the kingdom. It is an inexcusable ignorance or thoughtlessness alone, which can ever overlook the intimate connexion between our trading and our agricultural concerns; nor can any thing be more preposterous than the clamour frequently raised on the one or the other side, as if those two great branches of public industry could have interests incompatible with each other. The sufferings of the merchants and manufacturers are hardly less severe in these times, than the distresses which immediately occupy our attention in this Committee. It well becomes us to see that they do not increase under the pressure of foreign competition, since the restoration of peace on the Continent. Whatever measures may tend to open new markets to our industry, the government is most imperiously called upon to entertain. A more effectual relief can hardly be given to agriculture than such a support extended to the other parts of the community. Let me in this light, entreat the attention of the Committee, and more especially of His Majesty's ministers, to the trade with South America. Connected as we are with the governments of Portugal and Spain, by every tie that can give one power a claim to favour from another, surely we may hope to see some arrangements made which shall facilitate our intercourse with the rich markets of Mexico, Brazil, and Peru. At present, if I am rightly informed, a considerable traffic is driven with those fertile countries, but under trammels that render it irksome and precarious. It is known that no consuls or residents, either commercial or political, are established in Spanish America; and, indeed, the whole trade is little better than a contraband carried on under a certain degree of connivance. Yet it is difficult to imagine any thing more beneficial to our mercantile interests, than the establishment of a regu-

lar and authorized connexion with those parts of the world. The subject is not free from delicacy, in consequence of the efforts making by the Spanish colonies to shake off the yoke of the mother country—efforts, for the success of which every enlightened, indeed, every honest man, must devoutly pray. But wherever the authority of the Spanish and Portuguese governments extends, it may be hoped that some footing will be obtained for our merchants by negotiation, while, with respect to the revolted colonies, I trust his Majesty's ministers will beware how they carry their delicacy towards the mother country too far, and allow other nations to pre-occupy the ground which our own countrymen ought to have their share of. The Americans are in the neighbourhood; we know their indefatigable activity and vast commercial resources; let us take care, not that we press forward to exclude them from the markets in question—that is impossible; but that we obtain access to those marts for ourselves. It is a subject of vast extent and importance; I abstain from entering further into it; but this I will venture to assert, that the minister who shall signalize his official life by establishing, whether in the old or the new world, such a system as may open to his country the commerce of South America, will render a greater service to the state, and leave to posterity a more enviable fame, than it is in the power of conquest to bestow.

Sir, I have to thank the Committee for the patient attention with which they have honoured me. I am conscious that I owe it to the singular importance of the subjects I have been handling; and that, too, is the only apology I can offer for having so long trespassed upon your indulgence.

# SPEECH

ON

# MANUFACTURING DISTRESS,

DELIVERED IN THE HOUSE OF COMMONS,

MARCH 13, 1817.

# SPEECH.

SIR,—When I consider that the period of the session is well nigh passed, in which it has been the custom of this House, at periods of great public distress, to inquire into the state of the nation, and yet that nothing has been done to bring the subject before us, or to testify, on our part, a becoming anxiety concerning the sufferings of the people, I feel myself supported by this reflection under the magnitude of the vast question which I have presumed to handle. We have, in truth, allowed the accustomed season of investigation to elapse, without doing any thing except what, with all possible respect for the proceedings of Parliament, I conceive to have been beginning at the wrong end. Mistaking the symptom for the malady, we have attempted to stifle the cries of the people in their extreme distress, instead of seeking the cause of their sufferings, and endeavouring to apply a cure. I am, indeed, aware that there are many who differ with me upon this subject, who deemed the late measures of legislation salutary and wise. But whatever variety of opinion might exist upon their merits, I may now appeal to all who hear me, to those who joined me in

deprecating and resisting the suspension of the Constitution, and to those who viewed this frightful step as justified by the necessities of the times, and call upon all parties alike to say, whether the moment is not at length come, when it behoves us to mount from the effect to the cause of the mischief; and, having done so much to preserve the public peace, whether it is not our duty to search for the means of alleviating the general misery by which alone that peace has been endangered. My very sincere anxiety to give the Parliament an opportunity of discharging this duty, has made me bold to bring forward the present question; too late, I admit, for attaining all the objects that might once have been within our reach, but early enough, I would fain hope, to effect some good purposes.

I am aware that there is nothing so injudicious as to begin a discussion like this, by hazarding any large and sanguine predictions of its probable result. Nevertheless, I will venture to say, that whatever difference of opinion may exist upon particular topics, a considerable majority of the House will agree in holding, that the period is now arrived when, the war being closed, and prodigious changes have taken place almost all over the world, it becomes absolutely necessary to enter upon a careful but fearless revision of our whole commercial system, that we may be enabled safely, yet promptly, to eradicate those vices which the lapse of time has occasioned or displayed; to retrace our steps, where we shall find that they have deviated from the line of true policy; to adjust and accommodate our laws to the alteration of circumstances; to abandon many prejudices, alike antiquated and senseless, unsuited to the advanced age in which we live, and unworthy of the sound judgment of the nation.

I shall begin, Sir, by entering upon the fundamental

branch of the inquiry, which I am solicitous the House should institute—I mean the present aspect of our affairs. Every one is aware that there exists in the country a great and universal distress—a distress wholly without parallel in any former period of its history. This, indeed, is unhappily matter of so much notoriety, that I should hardly think it required any particular proof or illustration, were it not that, according to my view of the subject, the extent to which the evil has spread, and the peculiar shapes which it has assumed, must be examined, before we can probe its sources or find a remedy. The House will speedily perceive in what way this examination of the fact conduces to the object we all have in view, and will, I am persuaded, give me credit in the meantime, for not leading them into superfluous details.

To demonstrate the general proposition, indeed, I might bid you cast your eyes upon the petitions that load the table, from all parts of the empire, from every description of its inhabitants, from numbers infinitely exceeding those that ever before approached us in the language of complaint. It is in vain to remind us of the manner in which some of them have been prepared for signature. Does any man believe, that a treasury manufactory of petitions, distributing the article through the country with all the influence of government, could procure one column of names to a statement of national prosperity, or a prayer for liberal taxation? Nor does the ineptness of the remedies which many of the petitioners suggest, impeach the correctness of their tale of distress: they may be very incapable of devising the means of relief—they are abundantly qualified to give evidence of the grievance.

I might next appeal to the returns from the Custom-House, to shew the declension of trade. I am aware that these documents give no information respecting

the internal commerce of the country, by far its most important branch; and that even with respect to foreign traffic, nothing can be more fallacious than arguments wholly drawn from such sources. When taken, however, in conjunction with other evidence, they are not altogether to be disregarded. Now, it is shewn by a comparison of the years 1815 and 1816, that there was a falling off, in the shipping employed during the latter year, of 826,000 tons, or nearly 5000 vessels. This fact is the more remarkable, that we were at war during a quarter of 1815, whereas 1816 was the first whole year of peace. These returns speak of the tonnage outwards and inwards; but they tell nothing of the difference between the exports and imports of either year. I will venture to assert, that a much more considerable defalcation will be found in the importation of last year than the mere falling off in the tonnage indicates. I am well aware, that many millions of goods have been sent abroad, for which no returns have been received, and which never will produce sixpence to the exporters. Upon this point no Custom-House papers can give any information. They cannot shew what proportion of the cargoes shipped have found a market—what parts have been sold under prime cost—what parts remain upon hand unsaleable at any price—and what parts of the goods imported are in a similar situation.

We have known former times of great national suffering—most of us are old enough to remember more than one period of severe public calamity—but no man can find an example of any thing like the present. In 1800 there was a scarcity much greater than is now felt, but no distress ensued beyond the reach of private charity, and the affliction ended with the bad season; for, though provisions were dear, work was abundant, and the bulk of the poor were enabled to sustain the

pressure of the evil. In 1812 there was a much greater distress—the dearth was less, indeed, but the rate of wages was far lower. The House well remembers the painful inquiries in which it was then my fortune to bear a considerable part. We were accustomed to describe the circumstances in which we found the manufacturing population of the country as wretched beyond all former example; and the expression was strictly justified by the fact. Yet, compared with the wide-spread misery under which the same classes now labour, the year 1812 rises into a period of actual prosperity. It will be necessary for me, and I hope the House will grant me their indulgence, to go shortly into some particulars touching the great staple manufactures of the kingdom, in order to shew how unparalleled in its amount, and how various in its kinds, the distress is, which now every where prevails.

I shall begin with the clothing, a branch of trade which, from accidental circumstances, is not so depressed as our other great staples; and for this, among other reasons, that the foreign markets do not happen to be overstocked with this manufacture, while some considerable foreign government contracts have given great assistance to several of the clothing districts. I hold in my hand the result of statements which I have received from the principal clothing counties of Yorkshire—Leeds, Huddersfield, Wakefield, and Halifax. Taking the number of men engaged in the branch which suffers most, the cloth dressing, at 3,360 in August last, there were then 927 in full, 1385 in partial employment, and 1048 wholly out of work. Calculating upon the same number, there are now only 757 in full, and 439 in partial work, while 1164 are entirely idle; that is to say, a third of the whole are idle, and of those who have any work, only one-third, that is, two-ninths of the whole, or two men in nine, have full

employment. The distress of the other clothiers in this county is far from being so considerable; but in the West of England, I am informed by the most unexceptionable evidence, that it exceeds any thing which can easily be conceived.

If we now carry our view towards the iron trade, a most gloomy picture is presented; and I may take the state of Birmingham as a fair symptom of this commerce in general, intimately connected as that great town is with the neighbouring counties in all the branches of their industry and commerce. In a population of 84,000 souls, about 27,500 receive parish relief. Of the work people, one-third are wholly out of employ, and the rest are at half work. The poor-rates have risen to between fifty and sixty thousand pounds a-year, a sum exceeding, as I am informed, what the inhabitants paid to the income-tax. In 1812, when the House was so greatly touched by the state of this place, only a ninth part of the population were paupers, and the rates did not exceed L.27,000, yet we then thought the public distresses had reached their utmost pitch.

The people engaged in the iron trade may be divided into four great classes, with reference to my present purpose—the miners and others employed in obtaining the raw material—the persons employed in manufacturing arms—the nailers—and the common artificers. The first of these classes, who in 1810 received from 18s. upwards, as far as two guineas a-week, get now from 10s. to 18s.—the second, who received still higher, I might say even exorbitant wages, from the demand occasioned by the war, now get only 7s. 6d. when they are employed at all—the nailers who are better off than most classes, yet earn no more than 8s. or 9s., instead of 12s. or 15s.—while the common artificers are working at a shilling a-day. But in all these

classes the women and children, who used to earn so much as nearly to double the gains of the able workmen, are now wholly unemployed. Sir, I do not wish to mingle any allusions of a political nature with the description of these sad scenes; but I feel it due to the character and the sufferings of those unhappy persons, to assert (and I do so upon the authority of men who differ with me in political sentiments) that a more loyal, peaceful, tranquil set of people are not to be found within the limits of his Majesty's dominions.

It is truly painful to think, that, severe as the distress is in those parts of the country which I have been describing, a yet more melancholy picture presents itself when we turn to the great staple of the country, the cotton manufacture. This, as the House is well aware, consists of two branches, the spinning and weaving; but, from the introduction of machinery, the numbers employed in weaving are beyond all comparison greater than those employed in spinning. In Lancashire alone, and the borders of the adjoining counties, there are above half a million of persons who derive their support from the former. Taking the average gains of a thousand weavers, of all ages and classes, their rate of wages was 13s. 3d. a-week in May 1800. In 1802 the same persons received the still higher sum of 13s. 10d. In 1806 it had fallen to 10s. 6d.; and in 1808, after it had pleased the wisdom of government to "retaliate" as they phrased it, "upon the enemy the evils of his own injustice," and to inflict upon ourselves (as the event proved to such as had not the sense to perceive it) the evils of our own impolicy—when we had succeeded in quarrelling with our best customers—those wages fell as low as 6s. 7d. In 1812, when the whole virtues of our system had been called into action, and had bestowed the full measure of its beneficence upon our trade, the wages

fell to 6s. 4d. In 1816, the third year of peace, and while we were slowly moving through that transition of which we have heard (though it seems something of rather a permanent than a passing nature) wages were as low as 5s. 2d. This was in the month of May; and in January last, they had reached the fearful point of depression at which they now stand, of 4s. 3½d.; from which, when the usual expenses paid by the work people for the loom are deducted, there remains no more than 3s. 3d. to support human life for seven days. By another calculation it appears, that 437 persons have to provide for themselves and as many more out of 5s. a-week; making, for the whole subsistence and expenditure of each individual, less than 4½d. a-day.

When I paused over this scene of misery, unequalled in the history of civilized times, I felt naturally impelled to demand, how it was possible to sustain existence in such circumstances, and whether it were not practicable to administer charitable aid? To the first question I received for answer the painful intelligence, that those miserable beings could barely purchase, with their hard and scanty earnings, half a pound of oatmeal daily, which, mixed with a little salt and water, constituted their whole food. My other inquiry had been anticipated by that well-known spirit of kindness, not more humane than politic, by which the demeanour of the master manufacturers in this country has ever been regulated towards their workmen in the seasons of their common distress. Projects for affording them relief had been canvassed; but it was found, that to distribute only a slender increase of nourishment, an addition of a little milk, or beer, or a morsel of meat, to the oatmeal and water, no less a sum than L.20,000 a-week was required, and at a time when the masters were hardly receiving any

profits from their trade. To talk of charity, then, is entirely out of the question; the case lies far beyond the reach of private beneficence; and, if it admits of a remedy at all, must look to other sources of relief.

Now, what is the consequence of all this, and whither does it inevitably lead? These wretched creatures are compelled first to part for their sustenance with all their trifling property, piecemeal, from the little furniture of their cottages to the very bedding and clothes that used to cover them from the weather. They struggle on with hunger, and go to sleep at night-fall, upon the calculation, that, if they worked an hour or two later, they might indeed earn three-halfpence more, one of which must be paid for a candle, but then the clear gain of a penny would be too dearly bought, and leave them less able to work the next day. To such a frightful nicety of reckoning are human beings reduced, treating themselves like mere machines, and balancing the produce against the tear and wear, so as to obtain the maximum that their physical powers can be made to yield! At length, however, they must succumb; the workhouse closes their dismal prospect; or, with a reluctance that makes their lot a thousand times more pitiable, they submit to take parish relief; and, to sustain life, part with the independent spirit, the best birthright of an English peasant.

If from these details we ascend to considerations of a more general nature, and observe certain symptoms, which, though less striking in themselves, are perhaps the safest guides in such an inquiry, we shall find, that nothing is happening around us on any side, which is not indicated by these signs of the times. The first of the symptoms to which I shall refer is the great diminution that has taken place in the consumption of luxuries all over the country. This is attested by the undeniable fact, that there has been a material and

increasing defalcation in the produce of the Customs and Excise, especially of the latter, during the last twelve months. It is well known, too, that those districts suffered first, and most severely, which depended upon the manufacture of luxurious articles. Every one is familiar with the case of Spitalfields. The poor of that neighbourhood, after having exhausted the whole rates, have received from voluntary contributions, reflecting the highest honour upon the charitable and liberal character of the metropolis at large, sums, which, added to the rates, exceed the whole income of the parish at rack rent. In like manner the levies of Coventry and its neighbourhood have increased beyond all former example. It appeared, when the petition from thence was presented, that one estate of 200 acres paid L.400 in rates. A singular instance, illustrative of the same position, with respect to the country generally, was stated by my honourable friend the member for that city,* and, through his courtesy, I have this evening seen a more minute account of it than he then gave. A person belonging to the place has been accustomed for many years to travel over a great part of England, selling watches. He visits, in his circuits, 283 cities and towns, and he used commonly to dispose of about 600 watches. Last year, making precisely the same round as usual, he only found purchasers for forty-three. Perhaps, when we consider the variety of classes who use watches, and the extent of the space over which this diminution operated, it would be difficult to imagine a stronger symptom of the decrease in demand for luxuries. The watch trade in London has suffered in an equal degree. The statements recently published show, that there are 3,000 journeymen out of employment; that

* Mr. P. Moore.

those who are in work have been earning for the last three months one-fourth of their usual gains; and during the last month only one-sixth; while their property has been pledged to the amount of L.1,600, in three-quarters of a year. If I am not misinformed, other trades in the metropolis suffer in a like proportion. It is said that 2,000 of the 18,000 journeymen tailors in Westminster are wholly destitute of work.

I take the great discontent excited throughout the country by the introduction of new machinery to be another symptom, and a most unerring one, of the present distress. Formerly when the invention of any piece of mechanism for abridging manual labour occasioned an alarm among the working people, it was partial and transient. Those who were thrown out of employment speedily found other channels of profitable occupation, the population disengaged by the new machine were absorbed, with their industry; and in a short time the traces of the change disappeared, except that its beneficial effects upon the capital of the country soon created a greater demand for labour than existed before the invention. But now the case is widely different. The petitions, which night after night are presented to us by thousands and tens of thousands, complaining of machinery, testify, that when workmen are flung out of one employment they can no longer find others ready to receive them; and that the capital saved by the abridgment of labour can no longer produce its healing effect. When Sir R. Arkright invented the apparatus which has proved of such benefit to this country, though it deprived many thousands of their livelihood for the moment, yet no particular discontent was excited. I have obtained from two of the greatest cotton spinners, in both parts of this island, an estimate of the saving in manual labour effected by that machinery; and as both concurred in

stating, unknown to each other, that by means of it one man could do the work of a hundred, I may assume the calculation as pretty near the truth. So considerable a shock to the labouring population produced scarcely any discontent. The case is so different now, when the smallest improvement is made in the means of economising human power, that I hardly know whether to rejoice or be sorry at any such change. There has of late been a considerable accession of mechanical power in the weaving trade; and though it cannot operate like the spinning mills, yet it bids fair to throw numbers out of work, and destroy even the scanty pittance at present gained by a great number of those wretched individuals, whose hardships I have been describing to-night—I allude to what is called the Power Loom, by which one child is enabled to do the work of two or three men. But the House will hear with surprise and vexation, that mechanical improvement has, as it were, reached its limit; an unexpected impediment has started up to check its farther progress. It is now found, for the first time in the history of mankind, so low are wages fallen, so great is the pressure of distress, that manual labour is making reprisals on machinery, standing a successful competition with it, beating it out of the market, and precluding the use of an engine, far from costly in itself, which saves three labourers in four. The farther introduction of the power loom is actually stopped by the low rate of weaver's wages! There are, however, other branches of industry, as the printing and lace trades, which have been lately threatened, if I may so speak, with the competition of new mechanism, and of such powers as not even the miserable wages of the day can be expected to resist.

The last symptom of distress which I shall mention, is the state of the money market, I am aware that

there are some who view this subject in a very different light. I know not if the Right Honourable the Chancellor of the Exchequer concurs in the opinion recently delivered from high authority in another place, no less than that of the First Minister of the country, and the person at the head of its finances. That noble lord is reported to have drawn the most favourable augury from the late rise of the funds, which he ascribed, by some process of reasoning not very easily followed, to the suspension of the Habeas Corpus act. However injurious this measure may prove to the Constitution, it seems we are to regard it as highly favourable to trade. Now, suppose I were minded to turn the tables upon the noble lord, and bid him look at the still greater rise of the stocks after the report of the committee appointed to examine the contents of the Green Bag. That famous document first unfolded the existence of the Spencean plan, and was calculated directly to bear upon the funds; because, according to the true faith of that great sect, though the landholder is bad and fit to be despoiled, the fundholder is "a monster, and must be hunted down." So says the report, yet the funds rose upon its appearance; from whence I might argue, if I chose to adopt the ground of the First Minister of finance, that the fundholders one and all disbelieved in the existence of the plot. I will not, however, take this advantage of the noble lord, by following his own example. I am satisfied with drawing, from the state of the stocks and the money market generally, inferences more naturally connected with the subject, and in favour of the view I have already taken of public affairs. It is well known, that there exists at present a facility of obtaining discounts at 4 and 4½ per cent. on bills of short dates, which even a year ago were not to be procured at a much higher premium. Stocks, too, have risen; they are 10 per cent. higher

on the nominal capital than they were a few months since. Exchequer bills, after two several reductions of interest, leaving the income upon them at only 3½ per cent., still bear a premium. What does all this prove? If I saw that there was any proportionate facility in obtaining loans upon land at 5 per cent., that is, upon the best security our law affords, I might be inclined to pause before I ascribed the state of the money market to a glut of unemployed capital. But hitherto none of this capital has overflowed upon the land; and the fact is unquestionable, that there is much money in the market of stocks, floating debt, and discounts, only because there is little or no employment for it in trade, and because no capitalist chooses to put his money beyond his reach for more than a few months, in the expectation that commerce will revive. The want of employment at home has a tendency to drive capital abroad; and signs of this emigration have already manifested themselves in the negotiation of loans with foreign powers. One transaction of this nature has already been concluded with France; and undoubtedly the greater part of the money to be advanced in the course of it will come from the capitalists of this country. America is said to have two speculations of a similar description going on at the present moment in the city. Respecting one of them I have heard some particulars; and it resolves itself into a stock operation, the object of which is the application of British capital to the support of the American funds. How, indeed, is it to be supposed, that capital should not find its way abroad, when, on the other side of the channel, it fetches in the public stocks nearly double the interest given by our funds, and much more than double the interest paid by our floating debt? The state of foreign exchanges with this country I shall at present only glance at cursorily, because I venture to

assure the House, that, before I sit down, if I do not altogether fail in stating the views I entertain of another branch of the subject, I shall be able to demonstrate the necessary connexion between what is called a favourable rate of exchange and the depression of foreign commerce. That rate is in fact only another proof of the unnatural state of our trade; it is the immediate result of forced exportations, with scarcely any importation in return. Thus it happens, that when goods have been sent to any part of the Continent, from whence nothing can be brought back, in order to remit the produce of the sales, there is a demand for bills; but there being no transactions ending in this country, and no real bills, fictitious drawing is resorted to, until the pound sterling is raised to a height above par, very favourable indeed to those who spend money abroad, but wholly useless to traders, who can buy nothing there to sell again in this country: a height, too, which it cannot retain as long as there is bullion to send over, and which, when properly understood, indicates the existence of a traffic unnatural and necessarily short-lived—exportation without imports.

Sir, when such is the unparalleled state of embarrassment under which two of the great branches of national industry, commerce and manufactures, labour, it would be in vain to expect that any material or permanent improvement should take place in that which is the ultimate source of all wealth and prosperity, and is intimately connected with every other employment —I mean our agricultural. If we hear less at the present moment of the distresses of the landed interest, it can only be because the consumption of the foreign grain, which last year oppressed the markets, and the measures adopted by the legislature to shut out this competition, have been aided by a scanty crop, and have raised the price of corn. Those districts where

the harvest has been tolerable are therefore comparatively well off; whereas last year the suffering was universal; but wherever the crop has been a failing one, that is, in the greater part of the country, the high price is by no means a compensation for the deficiency and the poor-rates. I have therefore no manner of doubt, that the land is, generally speaking, worse off than before. It is indeed a vain and idle thing to take distinctions between the different orders of the country, and to speak of the agricultural and mercantile classes as if they had opposite or even independent interests. They are all intimately and inseparably connected by the eternal nature of things; they must for ever run together the same course, whether of progress or decline. I will give you, on this matter, the words of a man who, having by his honest industry become the greatest ornament of the one order, made himself, by the fruits of his honourable gains, a distinguished member of the other, and afterwards rose, by his sagacity and experience, to adorn also the literature of his age. "Trade and land," says Mr. Child, "are knit each to other, and must wax and wane together; so that it shall never be well with land but trade must feel it, nor ill with trade but land must fall."

The House will feel how much less difficult it is to describe the extent and intensity of the prevailing distresses, than to trace the various causes which have concurred in producing them, and to separate those portions of the evil, which arise out of temporary circumstances, from those which have gone on increasing with a slower growth, deeply rooted in the system of policy that has been established amongst us, or at the least closely interwoven with it. But I should not deal fairly with the House, if I did not thus early state my opinion as to the nature of those causes generally: it is founded upon the universal extent and the

great variety of the distresses which I have been describing; and my principal reason for entering so largely into that description was, not certainly because it required any such evidence to prove the miserable condition of the country, but because, from the universality in which the pressure prevails, I deemed the inference to be unavoidable, that it springs from causes of no temporary nature. It is quite true that a transition from war to peace must always affect several branches of public wealth, some connected with foreign, but a greater proportion with domestic trade. Thus two departments of industry have suffered severely by the cessation of hostilities; the provision trade of Ireland, through it also, the cattle market of this country; and the manufacture of arms at Birmingham. The distress arising from the peace in those branches of commerce may be temporary; if all the other channels of trade unconnected with the war were open, it certainly would be temporary. But when we find the depression general in all lines of employment, as well in those uninfluenced by the war demand, as in those wholly dependent upon it; when we see that hands thrown out of work in one quarter can no longer be absorbed into the other parts of the system; when there plainly appears to be a choking up of all the channels of industry, and an equal exhaustion in all the sources of wealth—we are driven to the conclusion, that the return of peace accounts at the utmost only for a portion of the sad change we every where witness, and that even that portion may become permanent from the prevalence of the evil in quarters not liable to be affected by the termination of the war. I have shewn you, that the cotton trade, wholly unconnected with the war, is more depressed than the iron trade in general, and to the full as much depressed as the very gun manufactory at Birmingham. I am en-

titled to conclude, first, that the transition from war to peace has not produced all the mischief; and next, that the mischief which it has produced might have been got over, as in former times, if it had been the only one which oppressed us. Sir, we must once for all look our situation in the face, and firmly take a view of the extent of our disease. It is not of a partial description; it is of general prevalence; it is of a searching nature; there is no channel of our whole circulation into which it has not worked its way; no fibre or filament of our whole economical system that does not feel its deadening influence; not one limb has been hurt, but the whole body is impaired in the exercise of all its functions. Can we expect it all to heal and revive of itself, and in a short time? I need hardly remind you, that we are now approaching the fourth year of "transition," and still no relief, no mitigation; on the contrary, we experience an increase of our calamity; whilst every one knows, that in less than half the time, from the end of all former wars, a complete recovery was effected. I shall therefore endeavour to describe what, after all the attention that I have been able to give the subject, appear to me the real causes of the unnatural state in which every man must admit the country is placed.

I must entreat the House impartially to fix their eye upon the line of policy, which for many years past has been adopted by the public councils of the country. In refering to it, I shall as much as possible avoid the more debateable grounds of the commencement and continuance of war, and keep to points upon which I believe a very little explanation will preclude the possibility of any considerable difference in opinion. It should seem that those who style themselves the practical politicians of this country (because they are the dupes of a theory as visionary as it is absurd) have long been

surrounded by a class of men, who, blending with what is termed true mercantile knowledge, much narrow-minded, violent, national prejudice, or, as they call it, genuine British feeling, assume to themselves the style and title of the "sound statesmen," and certainly do in good earnest exert a real and practical influence over the affairs of the nation. With these sage instructors of almost every administration (and they are generally found united in place with their pupils, and knit to them by the endearing reciprocity of good offices), it is a maxim equally sacred and profound, that too much can hardly be done to discourage importations of all kinds and from all countries. The old mercantile system has long been exploded; but these wise personages, having been born and bred up in it, seem to have caught hold of its last plank, to which they still cling with all their might, perpetually conning over its grand motto—"All trade, and no barter, all selling, and no buying; all for money, and nothing for goods." To support the remnants of a doctrine universally abandoned in every enlightened country, all means are resorted to, fair and foul; for in defence of their favourite creed, these sound advisers betray a morality far from rigid or scrupulous. The theory itself is repudiated, and its very name disowned by all who have received a liberal education. No man is to be found hardy enough, no one so careless of his reputation for common sense, as even to use its language. How long is it since the "soundest" politician among us has ventured to speak, in public at least, the jargon of the balance of trade? Yet, marvellous to relate, the practical results of this extirpated heresy are interwoven with our whole commercial policy; and, though the nonsense, and even the dialect of its tenets are rejected of all men, they are disguised in legal phraseology, embodied in efficient regulations, and may be

traced in broad characters through every volume of the statute book down to the last. Year after year we have proceeded under the auspices of our wholesome, practical, sound, national statesmen, until we now find ourselves, as might naturally be expected, deprived of most of the great staples of foreign commerce.

In mentioning a few instances of our obligations to these sagacious counsellors, I must say a single word upon the corn bill, which, strictly speaking, comes within the class of measures I am alluding to. To the opinion, which I originally entertained upon that law, I still adhere. I feel now, as I did then, that its first effects are injurious, by cutting off a great article of foreign trade; but I look for an ample compensation of that injury in advantages of a higher nature; the ensuring a regular, a safe, and ultimately a cheap supply of the great necessary of life, which no change of foreign policy, no caprice of hostile governments, can impede or disturb. It may also be admitted by those who disapproved of the measure as a permanent branch of our policy, that the circumstances of the times justified its adoption as a temporary resource. At any rate, we resorted to it, not as the only prohibitory law in our commercial code, but while almost every branch of trade was struggling in the fetters of the restrictive system. We approved of it for special reasons, many of them temporary in their nature; and regarded it as an exception justified by those reasons, and by the unnatural state of our whole polity. The doctors of the mercantile school jumped at it as a part of their scheme, and as coinciding with the numberless trammels which they had devised for commerce in all its departments, and the removal of which might very possibly alter our whole opinion upon the corn bill. Let us only cast our eye over a few of those regulations.

I shall first request the attention of the House to the exploits of these sages in the Baltic trade. That branch of commerce has always been deemed highly important, both to our shipping and our mercantile interest; both with a view to defence and to gain. Its short voyages make it an excellent nursery for seamen; its quick returns are highly favourable to profit. Circumstances, which I need not enumerate, render it a peculiarly secure and steady kind of traffic. Yet, of the four great staples of the Baltic trade, two, including the greatest of the whole, have been cut off. We still receive hemp and tallow; but we have prohibited the importation of iron and timber. And to what views have we sacrificed this important market for our own goods? To encourage ruinous speculations in this country, we imposed a duty upon foreign iron amounting to a prohibition; while, to force the importation of inferior timber from our North American colonies, that is, to gratify the Canada and shipping interests, always highly favoured by the school of the practical and Right Honourable gentleman opposite,* we excluded the greatest staple of the Baltic. Instead of leaving the adventurers in mines to their fate, suffering them to thrive if they could by their natural resources, we encouraged them, by extraordinary stimulants, in a pursuit, which sound policy would rather have discouraged; a precarious, gambling, and upon the whole a losing concern to the country. Mark the consequences of this system. We used to export L.400,000 or L.500,000 of our manufactures annually to Norway; that vent, I understand, has now ceased, Norway having no other means of making payment but the iron and the timber, which our modern practitioners of antiquated wisdom have seen good to exclude altogether.

* Mr. Rose.

Canada, for whose sake the sacrifice was partly made, no doubt, still remains ours, in spite of all the pains we took to lose it; but there is no part of this country at present so distressed as the mining districts of Wales. A similar prohibition of foreign copper has cut us off from one of the principal articles of South American produce.

It is not many days since some conversation took place respecting an Act of last session, which imposed protecting duties on foreign butter and cheese. I then expressed my repugnance to any extension of that protection; and I will now mention a fact within my knowledge, both to show how dangerous this sort of legislative interference is in a vast, complicated, and delicate commercial system, and also to demonstrate how little a high rate of exchange indicates a thriving trade. The instant that those duties were imposed, as true as the pulse keeps time with the stroke of the heart, foreign exchange rose, as it is called, in our favour two or three per cent. A branch of our importation was lopped off; it became more difficult to remit from abroad, in the first instance, and consequently must have become proportionably more difficult to send goods thither immediately after; our whole foreign trade was sensibly diminished, and by the very operation which raised the exchange, and in exact proportion to its rise. So much for the quick effects of the operations in which these sound personages delight; so much for the accuracy of the symptom which they consult as infallible in pronouncing upon the state of commerce!

The same perverse views have long regulated our commercial intercourse with France. Partly from mercantile views, partly from feelings of a political, and almost a religious nature, there are many amongst us, who have laid it down as a principle, from whence

they hold it nearly impious to depart, that as little wine as possible must be taken from France. Although that fine country is our nearest market, and ought to be our best customer; although the vine is its chief produce, and its wines are allowed by all to be the best, by some considered as the only ones drinkable: yet their importation is to be avoided because France is our natural enemy, and Portugal our dear, and indeed costly friend. In the true spirit of this creed, the Chancellor of the Exchequer some time ago laid a new duty upon claret, not with any view to revenue, but, as he himself declared, in the technical language of his sect, with the hope of discouraging the use of French wines, upon principles of a political nature. It may, for any thing I know, be in the contemplation of this class of statesmen, a mark of comprehensive policy in a manufacturing country to refuse those articles which it wants the most and likes the best, and which alone enable a trade with its best customer to be kept up. But if I may be allowed to speak as a trader, availing myself of the flattering compliment bestowed upon me last night by the worthy Alderman,* and to proceed on the suggestions of common sense, I should regard such conduct, not as the result of sound policy, or of any policy at all, but as dictated by prejudices bordering on insanity.

But it is somewhat melancholy to think that worse blunders remain untold. The conduct pursued with regard to the linen trade very considerably surpasses all that I have mentioned; for it has been as directly in hostility to the favourite principles of the mercantile school as to the interests of the country. That school has always patronised the carrying trade in an especial manner; and I believe I may assert, that no

* Atkins.

branch of it was ever more productive than the transit of foreign linens; yet upon this we began, and never stopped until we had imposed a duty of fifteen per cent. upon all linens imported and re-exported. If I am asked to explain why we did so, I cannot; for here the wit of man would in vain search for any thing like a reason. But I can tell what the Ministers thought they were doing all the while. The fact is, that many nations prefer foreign linens to our own; and they use to buy those linens here. We saw this, and said they should not have them; so to legislate we went; resolved, that an act of Parliament should pass the two Houses, and should then receive the royal assent, as requisite to make it binding upon the taste of foreign countries, which we expected would be changed to please us the instant that the solemnities of legislation were completed, and the accustomed words from the Crown pronounced. What has been the consequence? Those nations who formerly repaired to British markets, laid in their investment of foreign linens, and at the same time completed their assortment in British goods, (the foreign linen operating as a kind of decoy, from the convenience of finding all their cargo in the same place) all at once ceased to visit our ports. They were unmannerly enough to disregard our law, although it had been passed with every one of the accustomed formalities; they took their course to Hamburgh, Amsterdam, and Copenhagen, where they could get the foreign linens somewhat cheaper than we ever sold them. This latter advantage they had always disregarded, considering the opportunity of conveniently completing their assortments of British articles as a compensation for it; but the transit duty was much greater than the trade could bear; it proved, as indeed it was meant, a prohibition; only that the contrivers of it, who did not mean to drive the pur-

chaser to a foreign market, forgot that they had no means of keeping him in one where they would not sell him what he wanted. They forgot, too, that his departure not only destroyed the transit trade, but the trade in British goods connected with it and now transferred to foreign countries. The House, no doubt, must be prepared to hear, that this scheme of perverse and short-sighted folly is not of yesterday. It betokens so slow a state of information, so gross an ignorance of the subject, so senseless a disregard of the most obvious principles, that every one will readily conjecture its origin to be lost in antiquity. At all events, it must have been invented prior to the date of the mercantile system, itself now exploded; for nothing can more clash with the doctrine of promoting the carrying trade. Then what will the House say, if it is less than a century and a half since this notable law passed? What if, after ages of experience, after the full knowledge imparted by the multiplicity of events and changes crowded into the last twenty years—what if this statute was deliberately passed not longer ago that the year 1810, under the auspices of the present Ministers! What if, no farther back than last year, Parliament were induced by them to decline revising this piece of nonsense, and expunging it from the book! Sir, these are indeed things, which it requires the evidence of all our senses to make us believe. But if such be the groundwork of our commercial system, there can be little difficulty in comprehending the mischiefs that must sooner or later flow from it.

There are numberless other instances of the same policy, which I might detail to the House. I might speak of the duty upon the exportation of coal, amounting at ordinary prices, to seventy per cent.; but for which, that article might find a ready market in France, provided we agreed to take French goods in return.

Here, indeed, we may be said to act consistently; for, when we refuse to receive the produce of a country, it seems natural enough, though perhaps it is superfluous, to prevent ours from going thither. We are not, however, so consistent in all the branches of this system. While we protect agriculture in some respects, we allow the importation and prohibit the export of wool. This deviation from the general rule is professedly to encourage manufactures, by denying to foreigners the use of the raw produce; yet cotton twist is allowed to go abroad, though it is in the first stage of manufacture; and one should think it full as easy for the Continent to grow long wool as to erect spinning mills. The arrangement of the silk duties affords matter of similar observation; but I abstain from leading the House into farther details. I think I may venture to assert, that, taking all things into the account, the time is now arrived, when the circumstances of our situation imperiously demand a full and unsparing review of the whole commercial policy of this country; and not only the branch of legislation which bears a more immediate reference to trade, but the navigation law itself requires the same prompt and accurate revision.

Whether I consider that system with a view to national defence, or to commercial wealth, I feel persuaded, that no time should be lost in at least relaxing the rigour of its provisions. Many speculative writers have maintained, that it was from the first a sacrifice of wealth to security; but I am disposed to admit, that it was originally calculated to promote both these objects. I think it may fairly be allowed to have hastened, by half a century, an event which must sooner or later have happened,—the transference from the United Provinces to this country of a large portion of trade, which, though naturally belonging to us, had

been attracted by the peculiar advantages which enabled the Hollanders to possess themselves of the commerce of all other nations. But whatever may have been the good policy of the navigation law, I am quite clear, that we have adhered to its strict enactments a century after the circumstances which alone justified its adoption had ceased to exist. What is now passing in the colonies affords a striking illustration of its impolicy in the present times. Whether in consequence of orders from home, or of the views entertained by the local governments, the navigation law is enforced, it seems, with unusual strictness, a stop being put to the licences granted under the intercourse act for importing provisions in foreign bottoms. What course does America pursue to meet this protecting measure? She says, as you will not suffer us to supply your settlements, in any vessels but your own, with those articles of which they stand so much in need, that they may starve for want of them; we "retaliating on your head the mischiefs of your own policy," forthwith shut our ports against all vessels coming from ports from whence you exclude ours. This is the substance of a bill lately before Congress, now passed into a law. I have in my hand a copy of it, which has just arrived; and I know that the greatest alarm has been excited by it in our West India colonies, as well as among all who are connected with our North American fisheries. Here is a striking specimen of that obstinate, perverse system, that refuses to vary with the alteration of circumstances; that will not accommodate itself to the progress of events, or follow the course of times and seasons, but clings superstitiously to what is now inapplicable, though it may once have been important; as if time were standing still, and history were not the record of unceasing change.

Surveying, then, the derangement which pervades

every branch of the public economy; seeing how our trade is cramped by the short-sighted operations of an unenlightened and senseless policy; finding what trifling relief, and that little accompanied with serious obstructions, it has derived from the prosperous condition of our foreign affairs; we may assuredly affirm, that there never was a period in the vicissitudes of our fortunes, when British commerce might, with so much truth, be said to labour for its existence. Casting our eye over every point of the compass, and scarce able to descry any from which a solitary ray of comfort or of hope breaks in, it is natural for this House, to whose hands the sum of affairs is committed—for our unfortunate brethren, suffering under distresses that baffle description, after bearing us, by their industry and their patience, through the late eventful struggle—for the whole population of the empire, exhausted by the drains of a protracted warfare, weighed down by the pressure of the intolerable public burthens which it has accumulated, and now cut off from the temporary relief which the unnatural monopoly of that war afforded—it is, I will say, but natural and reasonable for us all to direct our expectations towards any untried resources, any new opening that may present itself to the industry of the community. There can be no field of enterprise so magnificent in promise, so well calculated to raise sanguine hopes, so congenial to the most generous sympathies, so consistent with the best and the highest interests of England, as the vast Continent of South America. He must indeed be more than temperate, he must be a cold reasoner, who can glance at those regions, and not grow warm. The illustrious historian* who has described the course of their rude invaders, relates, if I mistake not, that when, after un-

* Robertson.

paralleled dangers, amid privations almost insupportable, through a struggle with sufferings beyond endurance—weary, hungry, exhausted with the toil, scared at the perils of their march, they reached at length the lofty summits so long the object of their anxious enterprise, they stood at once motionless, in gratitude for their success, in silent amazement at the boundless ocean stretched out before them, and the immeasurable dominion spread beneath their feet, the scene of all their fond expectations.—And now the people of this country, after their long and dreary pilgrimage, after all the dangers they have braved, the difficulties they have overcome, the hardships they have survived, in something like the same state of suffering and exhaustion, have that very prospect opened to their view! If any sense of justice towards them, any regard for the dictates of sound policy, any reverence for the real wisdom of past ages, has influence over our councils, they must be enabled and invited to approach that hemisphere, and partake in the numberless benefits which flow from such an intercourse. Upon our good pleasure it depends to command the virgin resources of that mighty expanse of territory—variegated with every species of soil—exposed to all the gradations of climate—rich from the fallow of centuries—sufficiently peopled to raise every variety of the produce we want, yet too thinly inhabited to threaten our own industry with any rivalry—watered in all directions by seas rather than rivers—studded with harbours through which to distribute its wealth over the Old World—and the native country of that wherewith the sect of practical politicians are best pleased, and their patron saint propitiated, gold and silver mines, already fruitful, but capable of yielding infinitely larger returns under the management of European skill. Such is the prospect which those vast regions unfold; a prospect sufficient to compensate

every loss you have sustained; an adequate outlet for your mercantile enterprise, though Europe were once more hermetically sealed against you; though Buonaparte were restored, and his continental system (as indeed it is) revived: even though Europe itself were, for commercial purposes, blotted from the map of the world. Nor let any man suppose, that all this is the indulgence of a heated fancy: I rest my expectations upon a careful examination of facts, derived from authority altogether unquestionable. Some of these I shall state, for the guidance of the Honourable gentlemen opposite; because I well know, that some folks will listen to nothing which does not come in the shape of a detail.

The exports of Spanish America cannot amount to less than eighteen millions sterling in yearly value. Humboldt, the justly celebrated traveller, states them at thirteen and a half millions, from the custom-house returns in Old Spain: he reckons the exports of Buenos Ayres at L.800,000 of that sum, whereas, on the spot, they are reckoned at L.1,150,000: we may therefore assume that there is a similar deficiency in the other sums indicated by those documents, which would make the whole exportation worth eighteen millions, and one-third of it is from Mexico. It appears from official returns, indeed, that Cadiz imported from South America, in the year 1802, to the amount of eighteen and a quarter millions, of which twelve and a quarter millions were in bullion, a trade pleasing even to the gentlemen opposite; though I must confess the remaining six millions were only composed of goods, and I therefore ought to mention this sum with considerable diffidence. Before the late troubles, the annual coinage of Spanish America was nine and a half millions sterling, and it had trebled in half a century. The population of the country is about seventeen millions, including all classes; and it is estimated, that only one

person in three wears foreign manufactures. This is probably considerably above the truth; for of the seven millions who inhabit Mexico, only one is understood to wear those goods; the rest using a wretched stuff of home manufacture, only recommended by its cheapness; for, according to the remark of a native writer, England is there held to have taught them by her wars how to make their own clothes. What an opening does such a country afford for our goods! There exists no want of means to buy them, if the trade is so far facilitated as to afford them at reasonable prices; and if any proof were wanting how far the taste for using them might be introduced by opening the ports, the speculations at Buenos Ayres abundantly supplies it; for, though injurious to the projectors, that traffic has certainly had the effect of diffusing among the natives an inclination to use British manufactures. If the southern continent generally were opened, it would infallibly take, not only a larger quantity of them than has ever yet been sent thither, but a swiftly and regularly increasing quantity, which would in a short time leave the imagination behind that should try to calculate it.

With scenes such as these inviting our approach; with all the prepossessions of the natives in our favour; calling upon us to sacrifice no principle or propriety of conduct, but only to bless them with commerce and with the light of our superior civilization, in return for the treasures which they are ready to pour into our lap: whence comes it to pass, that, in a season of such pressure in all other quarters, this splendid theatre of exertion has been overlooked or avoided? It is the new-fangled, the execrable doctrine of *legitimacy*, the love of Ferdinand the Seventh, that has cut England off from her natural connexion with South America. In the hour of our greatest need we have sacrificed the certainty of relief, nay the brightest prospects of new

prosperity, to the antiquated prejudice against colonial independence, the political caprice of making common cause with the mother country in her endeavours to extinguish the new-born liberties of settlements, now, thank God, in spite of Old Spain and of ourselves, almost severed from her tyrannical dominion. But for these humours, so senselessly gratified, our flag might have floated in every part of that immense continent. We have chosen to be supplanted by a nearer power; a power as active and skilful in speculation as ourselves, and wholly free from the incumbrance of those political attachments and antipathies, which so lamentably fetter our commercial enterprise. Only see the course into which these doctrines, or prejudices, have driven us. In 1809, we concluded what is commonly termed Admiral Apodaca's Treaty, acknowledging the dominion of Spain over the Indies, in terms which seem even to imply a guarantee of her dominion. An article was added, which bound the parties, as speedily as possible, to conclude a treaty of commerce; but nothing whatever has since been done towards the fulfilment of this stipulation. In 1814, after the conduct of Ferdinand had called forth, not certainly the applause of all enlightened minds in all countries, it pleased our Government to make a convention with him, binding this country to every thing short of guarantee, and expressive of deep anxiety for the subjugation of those whom I call the independents, but whom the treaty stigmatised as revolted subjects of our dear ally. In vain have the various provinces of South America, successively, as they threw off the yoke of Spain, courted our notice, and offered us the highest commercial advantages in return. As often as the popular party obtained the advantage in any place, the ports were thrown open to our trade, the residence of Englishmen protected, all intercourse with them che-

rished. If ever the patriots were unhappily defeated, if the "anxious wishes" were gratified, which the convention expresses, on the part of this country, for the restoration of the legitimate tyranny, straightway the ports were shut against us, and our countrymen could no longer trade, or remain under the dominion of our favourite ally. We were offered by the revolted, as we call them, in Venezuela and New Grenada, an exclusive trade for twenty years; and their Congress, believing (I use their own words) "that it is the characteristic disposition of Great Britain to protect and assist oppressed people, for the sake of justice and humanity," vainly fancied their cause might be favourably viewed by us. The legitimate lieutenant of the Crown, Montalvo, subdued them for a while, and instantly proclaimed what he called "the wise and salutary regulations of the Council of the Indies," recited the services rendered by the Philippine Company to trade (of all things), and restored its exclusive monopoly, to be enforced with additional rigour. In 1816, General Bolivar made offers of the most advantageous nature, when on his way to battle for the independence of the Caraccas, which I trust in God he has before this time achieved. All such propositions were rejected—seldom honoured with an answer—always treated with contempt or aversion. We were for the party of the oppressor—we wished ill to freedom for its own sake, and out of the love we bore its enemy, notwithstanding the advantages we might reap from doing our duty, and helping its struggles. But even this bad policy has been pursued in a wavering, irresolute, and inconsistent manner. We have sent a consul to Buenos Ayres, where he did not present his credentials until the patriots had succeeded; he now resides in his public capacity, transacting business with the independent government. But no one other commercial or diplomatic agent has been

sent to any part of Spanish America, and even at Buenos Ayres, the blockade imposed by the royalists of Monte Video, a few years ago, was enforced by a British man-of-war. The long-established contraband trade with the Main is still encouraged, at least protected, in Jamaica. In Trinidad every impediment is thrown in its way; the councils of the government are influenced by an assessor, who retired thither after the massacre of the independents in Caraccas, where he had been a principal adviser; proclamations are issued, prohibiting, under the highest penalties, the sending, not only of arms, but of money, to the continent; and severe measures have been adopted towards the refugees of the independent party. These measures have produced their natural effect; and I understand that the principal articles of importation from the Spanish Main have almost doubled in price.

I entreat the House farther to recollect, that the same treaty which bound our Government to prevent all succour from being given to the patriots, bound Ferdinand to abolish the Slave Trade. We have more than performed our part of the compact—he neither has taken, nor has the slightest intention of taking, any one step towards fulfilling his part. I do not contend that we ought to make war upon him for the failure; but I think we have some right to have it explained; and I am clear, that, if he persists in his departure from the stipulation, we are set free from our part of the contract. That we should ever desire to recede from it is more than I can expect; for hitherto we have done much more than we bargained in his behalf and against the patriots. So bigotted are we to his cause, that I have read a memorial, presented to His Majesty's Government by three respectable merchants, who, having come to this country from Buenos Ayres upon commercial business, and having finished their arrangements,

were ready to sail on their return homeward, when they were stopped by an order from one of the under Secretaries of State, refusing them leave to proceed, until they should also obtain the Spanish ambassador's leave! Here is one of the fruits of that blessed measure the Alien Act; and a striking proof how soundly those reasoned against it, who urged that it would be used as a political engine for gratifying the caprices of foreign courts. The treaty, you will observe, only binds us to give no assistance to the patriots in warlike stores. The Trinidad proclamation threatens with banishment, confiscation, and imprisonment; all who shall send money. The direct stipulations only engage for neutrality; the preamble expresses the warmest good wishes for the success of the tyrant, while it insults the patriots with the name of revolters. But, as if we were resolved to go beyond both the spirit and the letter of this convention, to testify, by every possible means, our hostility to the cause of the Spanish colonies, and our anxiety to extinguish their rising liberties, the British Minister to the United States has been charged, in Congress, with a formal interference to prevent American citizens from sending arms and ammunition to the patriots; and no denial whatever has been given to the statement. I ask the Commons of England, if they are prepared to patronise councils so repugnant at once to the character and the interests of their country as those which, having excluded our trade from the marts of the Old World, deny it a vent in the New, for fear such an intercourse might aid the cause of human freedom, and give umbrage to the contemptible tyrant of Spain?

It has often been said, and I have hitherto assumed it as unquestionable, that the excessive load of taxation is one chief cause of the depression under which our commerce now labours. The House, I am persuaded,

will give me credit for entertaining no disposition to mix this question with popular clamour against burthens which must be borne. But I wish to remove some misconceptions of an opposite nature, which have too frequently influenced such discussions; and to shew in what manner relief might be given to the public without material injury to the revenue. Some persons, whose general opinions I profess to hold in great respect, have lately supported a position which I take leave to think a mere fallacy; they have maintained, that the amount of the imposts laid upon goods, or upon whatever affects the price of goods destined for the foreign market, can be no obstacle to their sale; and they attempt to prove this strange paradox by the consideration, that, as we are enabled to give a proportionably higher price for those commodities which we take in return, it comes to the same thing, whether the foreigner buys cheap or dear of us. A single word overthrows this reasoning at once. Admitting, for a moment, that prices are thus regulated; the foreigner who has goods to buy, will go to those who sell cheaper than we can do; and the foreigner who has goods to sell will come to us, who can give the best prices. To suppose that those who cannot afford to sell as cheap as others, will have the power of regulating the market for their own commodities, is as absurd as to suppose, that those who can afford to buy dearer than others, will pay higher than is necessary. There is another fallacy, much more prevalent, as to the effects of taxation within the country. The money thus raised, we are told, is spent by the government; and the same consumption is maintained as if it were expended by the individuals who paid it. Thus, to take the principal example, it is contended, that if we raise forty-four millions to pay the interest and charges of the debt, that sum is spent in the country by the

stockholders, instead of being spent by the payers of taxes. But first of all, it should be recollected, that those sums are levied in one part of the system, and generally expended in another, so that the expenditure affords no relief in the quarter where the levy of the impost was principally felt. Thus, when the duty on sugar was raised, in the course of a few years, from 14s. to 27s. a cwt., that sum was neither returned to the planter nor the consumer; it neither went to create a new demand for the article enhanced, nor to aid those who paid dearer for it; it went to support other industry than that of the grower, and other resources than those of the consumer. Next we must bear in mind, that the revenue paid to the stockholder represents capital, which has been sunk and in great part destroyed by war—capital which has been taken away from profitable to unprofitable employment. Nor is there any fairness in the argument, that the community is not injured by a mere transference of wealth, though none should disappear; for the taking from one class to bestow upon another, injures the one more than it benefits the other, even if we had any right to strike such unjust balances; and how much more does this apply to the case of taking from an existing class, to supply one which we create, or at least augment, for the purpose of impoverishing the other! But the truth is, that all taxes go to support, either those whose labour is so much dead loss to the community, or much less productive than it might have been; whose numbers therefore ought never to exceed the lowest possible amount. The immense sums now raised, either feed those employed thus unproductively, or pay those whose capital has been spent in the same way; they are a constant drain upon the fund destined to support productive labour; they not only prevent accumulation, but create a destruction of capital; they

necessarily diminish, in exact proportion to their enormous amount, the fund which creates the effective demand for all articles of consumption. The operation, too, of taxes, in driving abroad various branches of industry, is unquestionable. They give advantages to foreigners in many points of view. Take, for instance, our duties on silk. The raw pays 5s. 6d., the organized 15s. the pound; while in France there is but one duty on both, and that only 2s. 6d. The French silk weaver, then, gets the article, in the first stage of manufacture, for less than half what our's pays for the raw material, as far as duty is concerned. Sometimes foreigners are discontented by a tax beyond its mere amount; the increase of, I think, only half a crown upon the policy stamp, drove them away from Lloyd's, and created several insurance offices at Hamburgh and in America. Sometimes a branch of trade is irretrievably destroyed by an injudicious tax, or receives a shock from which, even after the repeal of the duty, it never recovers. I am informed that this has been the case with the watch trade; and the present appearances are quite consistent with this supposition.

I purpose now to illustrate what I have said of the effects which taxation produces upon consumption, by a reference to facts; and I shall, at the same time, have an opportunity of shewing that the revenue does not gain all the trade loses. On the contrary, I suspect we have been, in many instances, killing the goose that laid the golden eggs; and I greatly deceive myself if the Right Honourable gentleman opposite*, will not soon be aware, how much truth there is in Dean Swift's remark, that "in the arithmetic of the Customs two and two do not always make four."

* The Chancellor of the Exchequer.

I shall begin with the duties on sugar, one of the widest fields of modern finance. They were in a short time raised from 14s. to 27s.; and if the price reaches 40s. then to 30s. the cwt. In three years, from 1803 to 1806, the former duties were increased about 50 per cent. Now the average produce of the old duties, for three years before that rise, was L.2,778,000. The produce of 1804, after they had been raised 20 per cent., was not L.3,330,000, as they ought to have been, had the consumption remained the same, but only L.2,537,000; and the average produce of 1806 and 1807, after the whole 50 per cent. was added, only gave L.3,133,000, instead of L.4,167,000, which they should have yielded, had the consumption not fallen off since the first rise of duty began; or L.3,805,000, which they should have yielded, had there been no falling off since 1804. Thus both trade and revenue suffered by the great increase of duty in 1803; and trade suffered severely by the subsequent augmentations, while revenue gained in a very small proportion. The duties on glass were nearly doubled in ten years; the produce of those duties has not sensibly increased at all. Here then is a destruction of the glass trade, to the amount of one-half its whole bulk, without any direct gain to the revenue, and with a very certain loss to it in other branches connected with the diminished consumption. In this case two and two were not found to make four.

We have recently had before us the history of the wine trade, in a very excellent petition presented by my Honourable friend below me,* and well illustrated in the course of his remarks. The duties on wine have been trebled since 1792; the deficiency in the

* Mr. Sharpe.

port of London alone was L.338,329 last year, as compared with 1815. The average consumption of three years, ending 1814, was above 3,000 pipes less than the average of three years, ending 1808. In 1804 the duty on port wine was increased one-ninth; the produce of the duty that year fell off nearly one-fourth, instead of increasing a ninth; and in 1805 it had by no means increased a ninth above its amount before the rise. Here then was a diminution of trade, an abridgment of the comforts of the people, and an injury to the revenue, first directly and afterwards indirectly.

It is not so easy to illustrate by example the converse of the proposition; for, unhappily, the instances are rare in which taxes have been taken off or diminished: yet all the cases where this policy has been pursued demonstrate the truth of the doctrines for which I contend. When Mr. Pitt, by a wise and politic measure, in the year 1784, lowered the duty on tea from 56 to 12 per cent., the revenue rose considerably. The consumption could hardly have been increased sixfold, but smuggling was prevented to an extent which, with the increased consumption, made the revenue upon the whole a gainer. When in 1787, the duty on wine and spirits was lowered 50 per cent., the revenue was improved; the trade must therefore have doubled, the comforts of the people been materially increased, and the other sources of revenue have benefitted in the same proportion. But the progress of the duties and revenue upon coffee illustrates every part of the question in a manner peculiarly striking. In 1805 they were raised one-third, and that year their produce fell off an eighth, instead of increasing a third; in 1806 they had increased but only a sixteenth; so that the consumption had diminished above a fourth. But it was at length found, that this tax had been overdone, and it was lowered from 2s. to 7d. the cwt.

Mark the immediate effects of this step. The average produce of the high duty, for the three years before it was altered, was L.166,000; the average of the low duty, for three years after the alteration, was L.195,000; so that, as addition has the effect sometimes of diminishing, subtraction seems to increase the sum, in the arithmetic of finance. The augmentation here shewed an increase of consumption between four and fivefold; and in Scotland, I find, that it increased tenfold. It is not, then, on mere speculative grounds that I recommend the finance ministers to retrace their steps, and to turn their attention from devising ways of augmenting the taxes (an object, by the by, which they may pore over as long as they please, and will never be able to accomplish) to discover the best means of lessening the public burthens. I have shewn from facts, that taxes may be repealed with positive and immediate benefit to the revenue; I think no man hardy enough to deny, that the diminution would contribute mainly towards restoring our commerce to its healthy state, and re-establishing general comfort and prosperity.

The very collection of our present enormous revenue occasions evils of a serious nature to every class of the people. All of us are acquainted with the inconveniences of ordinary occurrence; but few are aware how severely they press upon trade. To the difficulties of collecting such a revenue are principally owing the monopolies of the dock companies, by which the whole of the West Indian commerce, and several of the other great branches of trade are subjected to heavy duties, and irksome delays. Our merchants complain of much dilatory and troublesome proceeding at the custom-house; they must wait for a person who has more to do than he can manage; they must, on every trifling difference, apply to the board; a variety of annoying steps must be gone through; bonds, with all the costs

incident to them, are needlessly multiplied; and, in short, every thing begins in plague, and ends in expense. It is very true, that better arrangement might remove some portion of these hardships, but the greater part of them are essential to the system. You cannot multiply indefinitely officers and boards, in whom so large a confidence is of necessity reposed; you cannot, in a word, collect such a revenue as ours, without infinite vexation and delay, beyond the actual burthen of the impost. Such prodigious levies, with their direct effects, hamper and distress our trade in various ways, which it would be impossible to estimate in money.

Sir, I have trespassed beyond all bounds, I fear, upon the patience of the House; but I cannot prevail on myself to sit down without soliciting your attention to that part of the subject which I have as yet only glanced at slightly. The House, I doubt not, have already perceived that I refer to the entire abandonment of all care for the commercial interests of this country in the administration of our foreign affairs. After a war of unexampled suffering and exertion has been crowned with success far beyond the most sanguine expectation, and lifted the name and the influence of the nation to a height without any parallel in the proudest eras of its past history, we naturally ask, how it comes to pass, that the glorious peace which our efforts have purchased comes without restoring our foreign trade; that we are still shut out from most parts of the Continent, as if war was still waged against our commerce; and that, day after day, fresh obstacles spring up to it in the quarters where it ought to meet the kindest encouragement? It is not in France merely, where we have long been accustomed to expect a return of jealousy, that our intercourse enjoys no facilities. In what corner of Europe does it possess them? Is it not

plain, that with those very allies for whom we have fought and conquered—for whose cause we have been lavish of our treasure and prodigal of our best blood—from whom neither dominion nor indemnity has ever been asked in return—even with those allies we have never had influence enough to obtain the advantage or the convenience of one single custom-house regulation in our favour? Has any thing been done by these men, with all their influence over the councils of Europe? Has any thing been attempted by them? I am aware that Russia has reduced her tariff in many articles since the termination of the war; but I also know, that, generally speaking, our commerce labours under duties so nearly amounting to a prohibition, as to throw it into the hands of contraband traders, and exclude the fair and honourable dealing of the British merchant. I know, that, from Memel to the southernmost part of Poland, along the whole line of the Russian frontier, the traffic is driven by means of Jews and other smugglers, as it used to be under Buonaparte's continental system: that now, as formerly, they have their great entrepôt at Brody, and were the purchasers of almost all the bills drawn last summer for the sales of wheat exported through Odessa to the Mediterranean. Russia, however, is more favourable to our commerce than any of our other allies, and some improvement might be hoped for in that quarter, were we not, exactly in that quarter, met most adversely by the other branch of our policy, of which I have already said so much, the prohibitory scheme of our own laws, by which we are prevented from taking in exchange most of the articles of Russian produce. But Prussia, with whom we made common cause—who owes to our efforts, next to those of her gallant people, the restoration of her independence—almost directly excludes us from all intercourse with her dominions. Duties

amounting to a prohibition are laid upon the importation of our goods: and for such as are carried through the territory to be sold elsewhere, there are only two ports of landing assigned, and a transit payment of 8½ per cent. imposed. How then does the matter stand in Spain—in that country which our gigantic exertions have saved—whose defence, in money alone, beside subsidies, and beside expenses incurred elsewhere, has left a sum of accounts still unaudited, amounting, as we heard the other day, to above fifty millions? Why, in return for this it appears, that with the cabinet of Madrid we possess just no interest whatsoever, either commercial or political! This is a picture of ingratitude on the one hand, and imbecility on the other, disgusting as it regards Spain—humiliating to our own government—provoking to the country.

The sense of the Spanish nation was, with more or less correctness, represented by the Cortes; while its authority continued, a free intercourse with us was studiously promoted. The Cortes was put down, freedom extinguished, and the beloved usurper restored. Instantly old monopolies were revived and enforced, and enlarged with new powers, all strictly hostile to British interests. Additional obstruction was given to our trade, notwithstanding Apodaca's treaty had, on our part, almost guaranteed the integrity of the Spanish dominions, and, on theirs, promised a speedy commercial arrangement. Nay, after our Ministers had, in support of Ferdinand, gone farther than was lawful for the rulers of a free and honourable nation like England; after they had been guilty of the most indecent subserviency to his criminal views, abandoned the high tone they used to assume with France while fighting his battle, looked on with perfect indifference at his iniquities, stooped to become the parasites of his caprices, and pander for him the degradation of his country and the

slavery of his unfortunate subjects, our own gallant companions in arms—how were they requited for those labours in the humiliation of the English name? In a "little month" after the signature of the second treaty, an edict was issued extending the monopoly of the Philippine Company, so as to exclude all British cottons; and we had hardly sent out the Order of the Garter to our ally, when, in return of the courtesy, this Decree was backed and enforced by new regulations; and the commercial privileges of Biscay, so favourable to all foreign trade, were, by an act of mere violence upon its ancient constitution, annulled! Beside the rigorous prohibition of cottons, woollens pay 26 and 43 per cent. for the two finer qualities, and as high as 130 for the second, a burthen which the fair-trader cannot bear. It thus happens, that our commerce with Spain is in a worse condition than with almost any other foreign state, and consigned, in a very great measure, to contraband traders. Not fifteen parts in the hundred of our goods consumed in that country are calculated to pay the duties imposed; the remaining seventy-five parts are smuggled; and about L.200,000 are paid yearly to Portugal for duties upon the goods sent thither in order to be covertly introduced into Spain.

If we turn our attention to Austria, again we meet with nothing but prohibition. Since the peace, for which we fought side by side with her, and conquered more for her than ourselves, she has either excluded, or loaded almost to the point of exclusion, all the articles in which we can trade with her fine dominions. Our manufactures generally are forbidden; so are cotton yarns below a certain fineness; and it is not much above half a year since the duties upon all finer yarns were suddenly doubled. It should seem as if, from all our exertions to serve the Continental powers, whether

looking after honour or profit, we were fated to reap nothing but loss and disgrace.

I would now call the attention of the noble lord in the blue ribbon,* to some things which, though within his department, it is very possible he may not be aware of; because it is quite possible, that those military gentlemen, whom he has planted as ministers and consuls in different places, how skilled soever in their own profession, may have failed to make any reports upon commercial arrangements, as things very much out of their line, if not below their notice. Does the noble lord now hear, for the first time, and if he does, I am sure it should make a deep impression on his mind, that punishment has so swiftly followed guilt? Does he for the first time hear, that the fruits have already been gathered of the two worst acts in that system of wicked policy, of which the noble lord is the advocate in this House, as he was the adviser elsewhere,—that the very persons, in whose behalf those deeds were done, have even now set themselves in direct hostility to the interests of this country. If he has not before heard this, it may prove a useful lesson to him, and, at all events, I trust it will not be thrown away upon public men generally, if I make known how those very individuals, for whose sake the noble lord sacrificed the honour of his country, and abandoned its soundest policy towards foreign states; those with whom, after pulling down the usurper, he plunged into the deepest of all the public crimes that stained his course, and gave the ground for resisting him—that they now execrate or contemn the man who made himself the accomplice of their infamous projects. I suspect the noble lord's conscience already whispers to what I allude. I guess he is aware, that I am going to

* Lord Castlereagh.

name Ragusa and Genoa—Ragusa and Genoa! where the name of England received a stain that all the victories of Lord Wellington cannot wipe away, nor the services of the longest life of the greatest minister that ever lived could atone for. I will speak of Ragusa first: it is the smaller state, and for that reason I dwell upon it the most; because, if there be such a thing as political morality, and political justice—if those words have any sense—they can only mean, that the rights and the liberties of the weaker states are to be protected by the more powerful; because, in the nature of things, public crime, the offence of one nation against another, must always consist of the strong trampling down the feeble. Therefore, if the spot in question were San Marino, instead of Ragusa, I should the rather cite the example, and deem the oppression of that smaller community a still more flagrant outrage upon justice—a baser dereliction of public principle. Ragusa had flourished for centuries under the protection of the Ottoman Porte, and nominally, at least, under its dominion. The Porte was the ally of England. Often had we blazoned Buonaparte's attack upon Egypt as among the worst of his atrocities, because France was in amity with the Turk, and there could be no motive for the enterprise but the love of gain, or the lust of power. Nay, his sending Sebastiani to Egypt after the peace of Amiens, was one of the principal grounds alleged by us for so suddenly renewing the war. Then, I demand, were we at war with the Ottoman Porte during the black transactions of Vienna? Were we not in friendship and alliance with it? Did we once consult it about the cession of Ragusa to Austria? What is more important, did we ever consult the Ragusans upon that cession? Have we not, without the least regard to the rights of a free people, parcelled out their country at our own dis-

cretion; and from the liberty they were enjoying and the independence they were proud of, delivered them over to what they deemed subjugation and tyranny? Had they, the Ragusans, the people of Ragusa, the smallest share in the deliberations of the famous Congress? They had no minister there—they had made no communication to the assembled negotiators—they had received none from thence. Their existence was hardly known, except by the gallant example they had set of shaking off, without any aid, the hated empire of France. And how did we requite them for this noble effort, nay, this brilliant service in what we cantingly termed "the common cause of nations?" We, who had sounded to the uttermost corners of the earth the alarum of Buonaparte's ambition—we who, in the name of freedom and independence, had called on the people of the whole globe, and on the Ragusans among the rest, (and they at least had answered the summons,) to rise up against him and overthrow his usurped dominion—we requited them by handing them over, in the way of barter, as slaves, to a power of which they detested the yoke! But let the noble lord, and let this House, and let the world, mark the retribution which has followed this flagitious act. Austria, extending her commercial regulations to all her new acquisitions, has absolutely shut our trade out of that very Ragusa which we had betrayed into her hands! and thus has the noble lord received his punishment upon the spot on which he had so shamefully sacrificed the honour of his country!

Sir, if any page in the history of the late Congress be blacker than another, it is that which records the deeds of the noble lord against Genoa. When I approach this subject, and reflect on the powerful oratory, the force of argument as well as of language, backed by the high authority of virtue, a sanction ever deeply felt in

this House, once displayed in the cause of that ill-fated republic, by tongues now silent, but which used to be ever eloquent where public justice was to be asserted, or useful truth fearlessly inculcated, I feel hardly capable of going on. My lasting sorrow for the loss we have sustained is made deeper by the regret, that those lamented friends* lived not to witness the punishment of that foul conduct which they solemnly denounced. The petty tyrant to whom the noble lord delivered over that ancient and gallant people almost as soon as they had, at his call, joined the standard of national independence, has since subjected them to the most rigorous provisions of his absurd code—a code directed especially against the commerce of this country, and actually less unfavourable to France.

Thus, then, it appears, that after all, in public as well as in private—in state affairs as in the concerns of the most humble individuals, the old maxim cannot safely be forgotten, that "honesty is the best policy." In vain did the noble lord flatter himself, that his subserviency to the unrighteous system of the Congress would secure him the adherence of the courts whom he made his idols. If he had abandoned that false, foreign system—if he had acted upon the principles of the nation whom he represented, and stood forward as the advocate of the rights of the people—the people would have been grateful. He preferred the interests and the wishes of the courts, and by the courts he is treated with their wonted neglect. To his crimes against the people all over Europe—to his invariable surrender of their cause—to his steady refusal of the protection which they had a right to expect, and which they did expect, from the manly and generous character of Eng-

* Messrs. Whitbread and Horner, in the debate upon Mr. Lambton's motion.

land—it is owing, that if, at this moment, you traverse the Continent in any direction whatever, you may trace the noble lord's career, in the curses of the nations whom he has betrayed, and the mockery of the courts who have inveigled him to be their dupe. It is in vain we attempt to deceive ourselves. No truth can be more evident than this, that if, instead of patronizing abuse, tyranny, and plunder, we had exhibited a noble, gallant, English spirit in behalf of popular rights and national independence—if, instead of chiming in with and aping their narrow, wretched principles, we had done our utmost to enlighten the policy of foreign courts—we should have had to treat with a number of constitutional governments, directed by sound views of policy, and disposed to adopt arrangements generally beneficial, instead of the capricious and spiteful regulations which now annoy us in every quarter.

Only compare the conduct of America towards us with that of the King of Sardinia, of the Austrian Emperor, of Ferdinand of Spain. From America we had no right to expect peculiar favour. Her struggle for independence we had treated as a rebellion. It was successful; and we never altogether forgave it, but entertained towards her feelings approaching sometimes to contempt, sometimes to hatred. I am very far from thinking the Americans untainted by similar prejudices. They have perhaps been foolish enough to cherish a little spite in return for ours. Nor do I give their government credit for being wholly above the influence of this animosity; but experience has shewn, that, in all popular governments, the true interests of the community must in the main be consulted, and in the great bulk of cases supersede every lesser consideration. Now, we can never, as a trading nation, desire more than that all other countries should adopt the line of commercial policy best suited to the interests of the body of the

people in each. The American government has, not from regard for us, but for the sake of its own subjects, pursued a course favourable to the mutual intercourse of the two states. It is allowing the manufactories created by our absurd system gradually to decline, because industry can there be more beneficially employed in other pursuits. With a few very trifling exceptions, the market of the United States will, in a few months, again be completely restored to us, as far as the competition of the American manufacture is concerned, and it is plainly the only considerable relief which we can expect for a long time to come. In France we might have obtained something like the same advantages. There was a time when the feelings of the people ran strongly in our favour; but, instead of cultivating such dispositions, we have adopted a policy destructive of every kindly impression, and calculated to alienate the affections of all who retain the slightest regard for national honour. I may appeal to any one who has been in France since the war, I will even ask the gentlemen opposite, if they have not observed a most intimate connexion between the commercial and the political prejudices which now prevail against us? Talk to them of a commercial treaty, or generally of trade with us, and their answer is, nor can we marvel at it, "While you keep 130,000 men in arms quartered upon our territory, we will not treat with you at all. While you rule us with a rod of iron, you shall get no gold from us by trading. While you exact tribute directly at the point of the bayonet, you must not hope to obtain it circuitously through the channels of traffic." These feelings are not peculiar to France; depend upon it, as long as the same fatal policy is pursued, British commerce will be excluded from the Continent—excluded more effectually than by Buonaparte's decrees and his armies, because now, for the first time, its ports are

sealed against us by the governments, with the cordial assent of the people.

I hope and trust that this country may, before it is too late, retrace the steps which it has been taking towards destruction, under the guidance of the noble lord. I pray that we may live to see England once more holding her steady course in the direction of a liberal, a manly, an honest, an English policy. May the salutary change be wrought, because our honour and fame demand it; but if no higher considerations can influence our councils—if all worthier motives have lost their force—may we at the least consult our safety; adhere to that which is right, because it is shewn to be beneficial; and abandon the path of dishonour, because it is leading us to ruin. I move you, Sir, to resolve—

"1. That the Trade and Manufactures of the country are reduced to a state of such unexampled difficulty as demands the most serious attention of this House.

"2. That those difficulties are materially increased by the policy pursued with respect to our foreign commerce, and that a revision of this system ought forthwith to be undertaken by the House.

"3. That the continuance of these difficulties is in a great degree owing to the severe pressure of taxation under which the country labours, and which ought, by every practicable means, to be lightened.

"4. That the system of foreign policy pursued by his Majesty's Ministers has not been such as to obtain for the people of this country those commercial advantages which the influence of Great Britain in foreign courts fairly entitled them to expect."

# SPEECH

ON

# THE ARMY ESTIMATES.

# INTRODUCTION.

## IMPORTANCE ATTACHED TO DEBATES ON THE ARMY ESTIMATES.

THE subject of the Army Estimates used at all periods of the war to bring on one of the most important, if not the most important, debates of the Session. It was in fact like a State of the Nation, and some of the most interesting, if not the greatest, speeches that have ever been delivered in Parliament, were made upon those occasions. The conduct of the war formed of course the main topic of such debates, although whatever else in the state of public affairs bore upon the existing hostilities, naturally came into the discussion.

In 1816 the war was at an end; but the Army Estimates continued to afford a subject of much animated debate, because they raised the whole question of the Peace Establishment, and were in fact a State of

the Nation. The following speech, delivered on that occasion, was most imperfectly reported, as in those days generally happened to speeches made in Committees of the Whole House. It has been revised from notes made at the time; but the passage respecting the punishment of Jacobinism is given from memory, and is believed to be much less full than the original was. The speech had a greater success than any other made by Mr. Brougham in Parliament; of which a memorial is preserved in the accounts of the Parliamentary Debates, which mention that it was "loudly cheered from all sides of the House" at its conclusion —a thing of very ordinary occurrence, indeed of daily occurrence now-a-days, but which hardly ever happened in former times.

# SPEECH

IN SUPPORT OF

## MR. CALCRAFT'S AMENDMENT,

*To substitute* L.192,638, 4*s.* 9*d. for* L.385,276, 9*s* 6*d., the Estimate for the Household Troops.*

DELIVERED IN THE HOUSE OF COMMONS,

MARCH 11, 1816.

# SPEECH.

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MR. BROGDEN,—Although I on a former occasion delivered my opinion generally upon these Estimates, yet I am anxious now to state my sentiments in more detail upon a subject of such great importance, and the rather because of the defiances flung out from the other side to all of us, to go into the examination of it. I stand forward to take up the gauntlet which has thus been thrown down; and I affirm that the more minutely you scrutinize the several items of this bill brought in against the country, the more objectionable you will find them. I object, in the first place, altogether to the large force of Guards which it is intended to keep up; and I even protest, though that is a trifle in comparison, but I do protest against the new-fangled French name of Household Troops, under which they are designated,—a name borrowed from countries where this portion of the national force is exclusively allotted to protect the Prince against a people in whom he cannot trust—is the appointed means given him to maintain his arbitrary power—is the very weapon put into his hands to arm him against the liberties of his country. However appropriate the appellation may be there, it cannot be endured in this nation, where the Sovereign ought never to have any reason for distrust-

ing his subjects, and never can be entrusted with any force except that which the defence of his people requires. But the name is of far less importance than the thing. Has the noble Lord* made out any thing like a case for raising the amount of this force to more than double of what it was in 1791? If any such proof had been given, I should not have been found among the opposers of the proposition. But the truth is, that, with all the professed anxiety of the noble Lord and his friends to go through the estimates, item by item; with all their pretended readiness and even desire to court full investigation; with all the bluster of their defiance to us, and the bravado more than once used, that we durst not grapple with the question in detail; they have themselves wholly shrunk from the inquiry, fled from all particulars, and abandoned all attempts at shewing, in any one instance, from any one conclusion, with a view to any single circumstance in the present situation of the country, that there is the shadow of a ground for this increase of force. We had the subject debated generally indeed, but at great length, a few days ago, on bringing up the report; and it had been repeatedly before the House on former occasions. We have now renewed the discussion on the motion for going into this Committee. We have been in the Committee for some hours. At this very advanced stage of the debate have we arrived, and, though all the members of the Government have addressed themselves to the question, many of them once and again, yet I defy any one to point out a single fact that has been stated, a single argument urged, a single topic used, to prove the necessity which alone can justify the scale these estimates are framed upon. It has indeed been said that 2400 of the Guards

* Lord Castlereagh.

are destined for France, where I suppose the army of occupation is required in order to demonstrate how tranquil our famous negotiators have left the whole Continent—how perfectly successful—how absolutely final—the grand settlement of all Europe is, upon which we so greatly plume ourselves, and upon which, above all, the political reputation of the noble Lord is built. But suppose I pass over this, and do not stop to ask what reason there can be for these 2400 men being Guards, and not simply troops of the line—those troops required to maintain our final and conclusive settlement, and enforce the profound tranquillity in which Europe is every where enwrapt; suppose I admit, for argument sake, and in my haste to get at the main question, that these 2400 Guards may be necessary—what is to be said of all the rest? There remain no less than 7600 to account for. What reason has been assigned, what attempt ever made, by the noble Lord to assign a reason why 3600 more Guards should be wanted more than in Mr. Pitt's celebrated establishment of 1792? I desire, however, to have this explained—I demand the ground for this enormous augmentation of what you call your "household force"—I have a right to know why this increase is called for—I call for the reason of it, and the reason I will have. Deduct all you require, or say you require, for France; what has happened since Mr. Pitt's time to justify you in nearly doubling the number of the Guards? That is the question, and it must be answered to Parliament and to the country—answered, not by vague generalities—by affected anxiety for discussion,—by shallow pretences of desire to have the fullest investigation,—by blustering defiances to *us*—and swaggering taunts that we dare not investigate. We *do* investigate—we do advance to the conflict—we do go into the details—we do enter upon the items one by one; and the first that meets us

on the very threshold, and as soon as we have planted a foot upon it, is this doubling of the Guards. Then how do you defend *that?* Where is the ground for it? What is there to excuse it or to explain? Mr. Pitt found 4000 enough in 1792—then what is there to make 7600 wanting now? Look at home—Is the country less peaceable now than it was then? Quite the contrary. It was then disturbed; it is now profoundly quiet. Then, although there was no insurrection, nor any thing that could be called by such a name, unless by those who sought a pretext for violating the Constitution, and by suspending its powers securing their own, yet still no man could call the state of the country tranquil—universal discontent prevailed, here and there amounting to disaffection, and even breaking out into local disorders;—rumours of plots floated every where about;—whilst meetings were held;—unmeasured language was used;—wild schemes were broached;—dangerous associations were formed. Though no man had a right to say that the government was entitled to pursue unconstitutional courses for meeting those evils, every man felt obliged to admit that there was reason for much anxiety—that the aspect of things was lowering—that alarm was a natural feeling—that the duty of the executive was to be vigilant and to be prepared. The fears of men whose loyalty was unquestioned, though their wisdom might be doubted, led them a good deal farther than this. Meetings were encouraged to address the crown, and testify the resolution to support its prerogatives. Bonds were entered into for defending the Constitution, believed to be threatened. Pledges of life and fortune were given to stand by the established order of things, and resist to the death all violence that might be directed against it. Parliament was not alone in countenancing these measures, proceeding from alarm. Both

Houses addressed the throne; both joined in asserting the existence of great peril to the Constitution; both declared that the public peace was in danger from the designs of the evil-disposed. To read the language of those times, both in public meetings and their addresses, and in Parliamentary debates, and resolutions of the two Houses, any one would have thought that a wide-spreading disaffection had shot through the land; that the materials of a vast rebellion were every where collected; and that the moment was tremblingly expected when some spark lighting on the mass, should kindle the whole into a flame, and wrap the country in destruction. Yet in that state of things, and with these testimonies to its menacing aspect, Mr. Pitt, at the very time when he was patronising the doctrines of the alarmists, encouraging their movements, and doing all he could to increase rather than allay their fears; when he was grounding on the panic that prevailed, those measures out of which his junction with a part of the Whigs arose, whereby he succeeded in splitting that formidable party—yet never dreamt of such a force as we are now told is necessary for preserving the public peace. He proposed no more than 4000 Guards; and held that amount to be sufficient.

We are challenged to go into particulars; we are defied to grapple with the question in detail. Then I come to particulars and details with the noble Lord. The main duty of the Guards is the London service; that is the district to which their force is peculiarly applicable. To keep the peace of this great metropolis is their especial province; and I grant the high importance of such functions. Then I ask when London was ever more quiet than at this moment? When were its numerous inhabitants ever more contented, more obedient to the laws, more disinclined to any thing

like resistance? At what period of our history was the vast mass of the people by whom we are surrounded, ever more peaceably disposed, more unlikely to engage in any thing approaching to tumult, than now? Why, they have even given over going to public meetings; the very trade of the libeller languishes, if it be not at end, in the general tranquillity and stagnation of these quiet times. All is silence, and indifference, and dullness, and inertness, and assuredly inaction. To the unnatural and costly excitement of war, has succeeded a state of collapse, perhaps from exhaustion, but possibly from contrast alone. The mighty events of the latter days, when the materials for the history of a country were crowded into the space of a few months, have left the public mind listless and vacant. The stimulus is withdrawn, and change has had its accustomed sedative influence. They who had been gazing till their eyes ached, and they doubted if they were awake, upon the most prodigious sights ever presented in the political and the moral world,—upon empires broken up and formed anew,—dynasties extinguished or springing up,—the chains cast off by not merely a people, but a hemisphere,—and half the globe suddenly covered with free and independent states,—wars waged, battles fought, compared to which the heroes of old had only been engaged in skirmishes and sallies—treaties made which disposed of whole continents, and span the fate of millions of men,—could hardly fail to find the contemplation of peace flat, stale, and unprofitable. The eye that had been in vain attempting to follow the swift march of such gigantic events, could not dwell with much interest upon the natural course of affairs, so slow in its motion as to appear at rest. And hence, if ever there was a time of utter inaction, of absolute rest to the public mind, it is the hour now chosen for

supposing that there exists some danger which requires defensive preparations, and the increase of the garrison with which the listless and motionless mass of the London population may be overawed. Why, my Honourable and Learned friend* has had nobody to prosecute for some years past. It is above two years since he has filed an ex-officio Information, unless in the Exchequer against smugglers. Jacobinism, the bugbear of 1792, has for the past six years and more never been even named. I doubt if allusion to it has been made in this House, even in a debate upon a King's speech, since Mr. Pitt's death. And to produce a Jacobin, or a specimen of any other kindred tribe, would, I verily believe, at this time of day, baffle the skill and the perseverance of the most industrious and most zealous collector of political curiosities, to be found in the whole kingdom. What, then, is the danger,—what the speculation upon some possible and expected, but non-existing risk—which makes it necessary at this time to augment the force applied to preserve the peace of the metropolis? But I fear there are far other designs in this measure, than merely to preserve a peace which no man living can have the boldness to contend is in any danger of being broken, and no man living can have the weakness really to be apprehensive about. Empty show, vain parade, will account for the array being acceptable in some high quarters; in others, the force may be recommended by its tending to increase the powers of the executive government, and extend the influence of the prerogative. In either light, it is most disgustful, most hateful to the eye of every friend of his country, and every one who loves the Constitution,—all who have any regard for public liberty, and all who reflect on the burthens imposed upon the people.

* The Attorney-General.

But if the internal state of the country offers not the shadow of justification for this increase of force, what shall we say of the state of foreign affairs? Above all, what shall we say of the comparison between the face of those affairs now, and its aspect in 1792? That was really a period of external danger. Never was there greater room for anxiety; never had the statesmen, not of England only, but of all Europe, more cause for apprehension and alarm,—more occasion for wakefulness to passing events,—more ground for being prepared at every point. A prodigious revolution had unchained twenty-six millions of men in the heart of Europe, gallant, inventive, enterprising, passionately fond of military glory, blindly following the phantom of national renown. Unchained from the fetters that had for ages bound them to their monarchs, they were speedily found to be alike disentangled from the obligations of peaceful conduct towards their neighbours. But they stopped not here. Confounding the abuses in their political institutions with the benefits, they had swept away every vestige of their former polity; and, disgusted with the rank growth of corruption to which religion had afforded a shelter, they tore up the sacred tree itself, under whose shade France had so long adored and slept. To the fierceness of their warfare against all authority civil and religious at home, was added the fiery zeal of proselytism abroad, and they had rushed into a crusade against all existing governments, and on behalf of all nations throughout Europe, proclaiming themselves the redressers of every grievance, and the allies of each people that chose to rebel against their rulers. The uniform triumph of these principles at home, in each successive struggle for supremacy, had been followed by success almost as signal against the first attempts to overpower them from without,—and all the thrones of the Continent

shook before the blast which had breathed life and spirit into all the discontented subjects of each of their trembling possessors. This was the state of things in 1792, when Mr. Pitt administered the affairs of a nation, certainly far less exposed either to the force or to the blandishments of the revolutionary people, but still very far from being removed above the danger of either their arts or their arms; and the existence of peril in both kinds, the fear of France menacing the independence of her neighbours, the risk to our domestic tranquillity from a party at home strongly sympathizing with her sentiments, were the topics upon which both he and his adherents were most prone to dwell in all their discourses of state affairs—Yet in these circumstances, the country thus beset with danger, and the peace thus menaced, both from within and from without, Mr. Pitt was content with half the establishment we are now required to vote! But see only how vast the difference between the present aspect of affairs and that which I have been feebly attempting to sketch from the records of recent history, no page of which any of us can have forgotten! The ground and cause of all peril is exhausted—the object of all the alarms that beset us in 1792 is no more—France no longer menaces the independence of the world, or troubles its repose. By a memorable reverse, not of fortune, but of divine judgments, meting out punishment to aggression, France, overrun, reduced, humbled, has become a subject of care and protection, instead of alarm and dismay. Jacobinism itself, arrested by the Directory, punished by the Consuls, reclaimed by the Emperor, has become attached to the cause of good order, and made to serve it with the zeal, the resources, and the address of a malefactor engaged by the police after the term of his sentence had expired. All is now, universally over the

face of the world, wrapt in profound repose. Exhausted with such gigantic exertions as man never made before, either on the same scale or with the like energy, nations and their rulers have all sunk to rest. The general slumber of the times is every where unbroken; and if ever a striking contrast was offered to the eye of the observer by the aspect of the world at two different ages, it is that which the present posture of Europe presents to its attitude in Mr. Pitt's time, when, in the midst of wars and rumours of wars, foreign enemies and domestic treason vying together for the mastery, and all pointed against the public peace, he considered a military establishment of half the amount now demanded, to be sufficient for keeping the country quiet, and repelling foreign aggression, as well as subduing domestic revolt.

Driven from the argument of necessity, as the noble Lord seemed to feel assured he should be the moment any one examined the case, he skilfully prepared for his retreat to another position, somewhat less exposed, perhaps, but far enough from being impregnable. You cannot, he said, disband troops who have so distinguished themselves in the late glorious campaigns. This topic he urged for keeping up the Guards. But, I ask, which of our troops did not equally distinguish themselves? What regiment engaged in the wars failed to cover itself with their glories? This argument, if it has any force at all, may be used against disbanding a single regiment, or discharging a single soldier. Nay, even those who by the chances of war had no opportunity of displaying their courage, their discipline, and their zeal, would be extremely ill treated, if they were now to be dismissed the service, merely because it was their misfortune not to have enjoyed the same opportunity with others in happier circumstances, of sharing in the renown of our victories. It is enough to have been de-

prived of the laurels which no one doubts they would equally have won had they been called into the field. Surely, surely, they might justly complain if to this disappointment were added the being turned out of the service, which no act of theirs had dishonoured. I am now speaking the language of the noble Lord's argument, and not of my own. He holds it to be unfair towards the Guards that they should be reduced, after eminently meritorious service—he connects merit with the military state—disgrace, or at least slight, with the loss of this station. He holds the soldier to be preferred, rewarded, and distinguished, who is retained in the army—him to be neglected or ill-used, if not stigmatized, who is discharged. His view of the Constitution is, that the capacity of the soldier is more honourable, and more excellent than that of the citizen. According to his view, therefore, the whole army has the same right to complain with the Guards. But his view is not my view; it is not the view of the Constitution; it is not the view which I can ever consent to assume as just, and to inculcate into the army by acting as if it were just. I never will suffer it to be held out as the principle of our free and popular government, that a man is exalted by being made a soldier, and degraded by being restored to the rank of a citizen. I never will allow it to be said, that in a country blessed by having a civil and not a military government, by enjoying the exalted station of a constitutional monarchy, and not being degraded to that of a military despotism, there is any pre-eminence whatever in the class of citizens which bears arms, over the class which cultivates the arts of peace. When it suits the purpose of some argument in behalf of a soldiery who have exceeded the bounds of the law in attacking some assembled force of the people, how often are we told from that bench of office, from the Crown side of the

Bar, nay, from the Bench of justice itself, that by becoming soldiers, men cease not to be citizens, and that this is a glorious peculiarity of our free Constitution? Then what right can the noble Lord have to consider that the retaining men under arms and in the pay of the state, is an exaltation and a distinction, which they cease to enjoy if restored to the status of ordinary citizens? I read the Constitution in the very opposite sense to the noble Lord's gloss. I have not sojourned in congresses with the military representatives of military powers,—I have not frequented the courts, any more than I have followed the camps of these potentates,—I have not lived in the company of crowned soldiers, all whose ideas are fashioned upon the rules of the drill and the articles of the fifteen manœuvres,—all whose estimates of a country's value are framed on the number of troops it will raise—and who can no more sever the idea of a subject from that of a soldier, than if men were born into this world in complete armour, as Minerva started from Jupiter's head. My ideas are more humble and more civic, and the only language I know, or can speak, or can understand in this House, is the mother tongue of the old English Constitution. I will speak none other—I will suffer none other to be spoken in my presence. Addressing the soldier in that language—which alone above all other men in the country he ought to know,—to which alone it peculiarly behoves us that he, the armed man, should be accustomed,—I tell him, "You *have* distinguished yourself,—all that the noble Lord says of you is true—nay, under the truth—you have crowned yourself with the glories of the war. But chiefly you, the Guards, you have outshone all others, and won for yourselves a deathless fame. Now, then, advance and receive your reward. Partake of the benefits you have secured for your grateful country. None are better than you entitled to share in the blessings, the inestimable blessings

of peace—than you whose valour has conquered it for us. Go back then to the rank of citizens, which, for a season, you quitted at the call of your country. Exalt her glory in peace, whom you served in war; and enjoy the rich recompense of all your toils in the tranquil retreat from dangers, which her gratitude bestows upon you."—I know this to be the language of the Constitution, and time was when none other could be spoken, or would have been understood in this House. I still hope that no one will dare use any other in the country; and least of all can any other be endured as addressed to the soldiery in arms, treating them as if they were the hired partisans of the Prince, a caste set apart for his service, and distinguished from all the rest of their countrymen, not a class of the people devoting themselves for a season to carry arms in defence of the nation, and when their services are wanted no more, retiring naturally to mix with and be lost in the mass of their fellow-citizens.

But it has been said that there is injustice and ingratitude in the country turning adrift her defenders as soon as the war is ended, and we are tauntingly asked, "Is this the return you make to the men who have fought your battles? When the peace comes which they have conquered, do you wish to starve them or send them off to sweep the streets?" I wish no such thing; I do not desire that they should go unrequited for their services. But I cannot allow that the only, or the best, or even a lawful mode of recompensing them, is to keep on foot during peace the army which they compose, still less that it is any hardship whatever for a soldier to return into the rank of citizens when the necessity is at an end, which alone justified his leaving those ranks. Nor can I believe that it is a rational way of showing our gratitude towards the army, whose only valuable service has been to gain us an honourable

peace, to maintain an establishment for their behoof, which must deprive the peace of all its value, and neutralize the benefits which they have conferred upon us.

See, too, the gross inconsistency of this argument with your whole conduct. How do you treat the common sailors who compose our invincible Navy? All are at once dismissed. The Victory, which carried Nelson's flag to his invariable and undying triumphs, is actually laid up in ordinary, and her crew disbanded to seek a precarious subsistence where some hard fortune may drive them. Who will have the front to contend that the followers of Nelson are less the glory and the saviours of their country than the soldiers of the Guards? Yet who is there candid enough to say one word in their behalf, when we hear so much of the injustice of disbanding our army after its victories? Who has ever complained of that being done to the seamen, which is said to be impossible in the soldier's case? But where is the difference? Simply this: That the maintenance of the Navy in time of peace, never can be dangerous to the liberties of the country, like the keeping up a Standing Army; and that a naval force gives no gratification to the miserable, paltry love of shew which rages in some quarters, and is to be consulted in all the arrangements of our affairs, to the exclusion of every higher and worthier consideration.

After the great constitutional question to which I have been directing your attention, you will hardly bear with me while I examine these Estimates in any detail. This, however, I must say, that nothing can be more scandalous than the extravagance of maintaining the establishment of the Guards at the expense of troops of the line, which cost the country so much less. Compare the charge of 2000 Guards with an equal number of the line, and you will find the difference of the two amounts to above L.10,000 a-year. It

is true that this sum is not very large, and, compared with our whole expenditure, it amounts to nothing. But in a state burthened as ours is, there can be no such thing as a small saving; the people had far rather see millions spent upon necessary objects, than thousands squandered unnecessarily, and upon matters of mere superfluity; nor can any thing be more insulting to their feelings, and less bearable by them, than to see us here underrating the importance even of the most inconsiderable sum that can be added to, or taken from the intolerable burthens under which they labour.

As for the pretext set up to-night, that the question is concluded by the vote of last Friday, nothing can be more ridiculous. This House never can be so bound. If it could, then may it any hour be made the victim of surprise, and the utmost encouragement is held out to tricks and manœuvres. If you voted too many men before, you can now make that vote harmless and inoperative, by withholding the supplies necessary for keeping those men on foot. As well may it be contended that the House is precluded from throwing out a bill on the third reading, because it affirmed the principle by its vote on the second, and sanctioned the details, by receiving the committee's report.

The Estimate before you is L.385,000, for the support of 8100 Guards. Adopt my Honourable friend's amendment,* and you reduce them to about 4000, which is still somewhat above their number in the last peace.

Sir, I have done. I have discharged my duty to the country—I have accepted the challenge of the Ministers to discuss the question—I have met them fairly; and grappled with the body of the argument. I may very possibly have failed to convince the House that this

* Mr. Calcraft.

establishment is enormous and unjustifiable, whether we regard the burthened condition of the country, or the tranquil state of its affairs at home, or the universal repose in which the world is lulled, or the experience of former times, or the mischievous tendency of large standing armies in a constitutional point of view, or the dangerous nature of the arguments urged in their support upon the present occasion. All this I feel very deeply; and I am also very sensible how likely it is that on taking another view you should come to an opposite determination. Be it so—I have done my duty—I have entered my protest. It cannot be laid to my charge that a force is to be maintained in profound and general peace, twice as great as was formerly deemed sufficient when all Europe was involved in domestic troubles, and war raged in some parts and was about to spread over the whole. It is not my fault that peace will have returned without its accustomed blessings—that our burthens are to remain undiminished—that our liberties are to be menaced by a standing army, without the pretence of necessity in any quarter to justify its continuance. The blame is not mine that a brilliant and costly army of Household Troops, of unprecedented numbers, is allowed to the Crown, without the shadow of use, unless it be to pamper a vicious appetite for military show, to gratify a passion for parade, childish and contemptible, unless, indeed, that nothing can be an object of contempt which is at once dangerous to the Constitution of the country, and burthensome to the resources of the people. I shall further record my resistance to this system by my vote; and never did I give my voice to any proposition with more hearty satisfaction than I now do to the amendment of my Honourable friend.

# HOLY ALLIANCE.

# INTRODUCTION.

HOLY ALLIANCE—EMPEROR ALEXANDER—LORD CASTLEREAGH—MR. HORNER.

Soon after the settlement of affairs subsequent to the battle of Waterloo, the three sovereigns who had borne the principal part in the military operations by which the war was closed, entered into certain engagements with each other by a Convention, the object of which they asserted to be the preservation of the peace just concluded. They named this the "*Christian Treaty*," and their alliance the "*Christian Alliance;*" but it soon came to be called by the world, as well as by the parties themselves, the "*Holy Alliance.*" It bore date at Paris, the 26th September 1815; and is certainly a document of a very singular description, and of a most suspicious character. The contracting parties, the two Emperors and the Prussian King, begin by acknowledging their obligations to Heaven for their late deliverance, and stating that the inference drawn by them from thence, is the necessity of

rulers forming their conduct upon the "sublime truths" which "the holy religion of our Saviour teaches;" and they further declare, that they have no other object in this treaty than to proclaim before the world their resolution to take for their guide the precepts of the Christian religion—namely justice, charity, and peace. The articles of the Treaty are three. In the first, the parties bind themselves to remain united as brethren in the "bonds of true and indissoluble fraternity," "to lend each other aid and assistance as fellow-countrymen, on all occasions and in all places, and conducting themselves towards their armies and subjects as fathers of families, to lead them in the same spirit of fraternity to protect religion, peace, and justice."—The second article declares the only principle in force between the three Governments to be, "doing each other reciprocal service and testifying mutual good-will;" and it avows that they all form branches of "one family, one Christian nation, having in reality no other sovereign than him in whom alone are found all the treasures of love, science, and infinite wisdom; that is to say, God our Divine Saviour, the word of the Most High, the word of life." The article concludes with earnestly recommending to their people the "strengthening themselves more and more every day in the principles and the exercise of the duties which the Divine Saviour has taught mankind."—The third article announces, that whatever Powers shall "solemnly avow the same sacred principles, and acknowledge the importance of the above truths being suffered to exercise full influence over the destinies of mankind, will be received with equal ardour and affection into this

Holy Alliance." Contrary to all the accustomed forms of diplomacy, the treaty was only signed by the three monarchs themselves, without any mention whatever being made of ambassadors, ministers, or other representatives, as engaged in the negotiation.

When this extraordinary transaction came to be known, it naturally excited great attention, and gave birth to many suspicions. That these powerful monarchs should make a treaty for no other purpose than to avow their religious fervour, and preach the Christian doctrine for the benefit of their subjects, and should form an alliance, having no other object than to profess together those doctrines, and in concert to practice them, seemed altogether unaccountable. This, of itself, would have been sufficient to awaken grave suspicions that much more was meant by this confederacy than met the eye. But to this was to be added the previous relations of alliance, offensive and defensive, which had subsisted between the same princes, and far from ending in sermons upon the duties of a Christian man, had brought into the field of battle above half a million of Christian men in full armour. There were indeed some parts of this curious document itself, which pointed pretty plainly at operations of the flesh rather than the spirit, and gave indications sufficiently manifest of the designs in which it originated, or at any rate of the proceedings to which it might lead. The first and fundamental article bound the parties to lead their armies in the spirit of fraternity, for the protection of religion, peace, and justice. Now, under a description so very vague and large as this, almost any objects might be comprehended; and men

did not fail to remark, that there had hardly ever been a war of the most unjust aggression begun without lavish professions that its only design was to see justice done, and obtain a secure and honourable peace.

Against these very natural suspicions, nothing could be set except the pious language of the treaty, which of course went for little, and the peculiar character of the Emperor Alexander, its chief promoter, which went for not much more. This Prince was said to have lately become a convert to some sect of religious enthusiasts, a distinguished Professor among whom was a certain Madame Krudener, one of those mystical devotees, half evangelical, half metaphysical, with which Germany abounds. The Alliance was represented as the result of this holy female's inspirations, and the first fruits of her influence over the Autocratic neophyte. The phrase was, and Lord Castlereagh, when questioned in Parliament, gave the matter this turn, that the whole was a mere innocent act, an amiable fancy of his Imperial Majesty, in which England and France were only prevented from joining, by the forms of their diplomacy excluding direct negotiation and treating by the Sovereign, but which, as it could not possibly lead to any practical consequences, was not worth objecting to, or commenting upon.

The Emperor Alexander, upon whose individual nature, habits, or caprices, this explanation and defence turned, was, after the fall of Napoleon, by far the most distinguished Prince in Europe, whether we regard the magnitude of the affairs in which he had been engaged, the extraordinary fortune that had attended his arts rather than his arms, or the vast empire over

which he despotically ruled. But although by no means an ordinary man, and still less an ordinary monarch, he owed his influence and his name very much more to the accidental circumstances of his position, and to the errors committed by Napoleon, first in Spain, then in the North, than either to any very admirable personal qualities received from nature, or to any considerable accomplishments derived from education. His preceptor, Colonel La Harpe, though a very worthy and intelligent man, was distinguished neither by profound genius, nor great scientific acquirements; and from his instructions the Imperial pupil could not be said to have profited greatly. His knowledge was exceedingly superficial; and never relying on his own resources, he adopted the Royal plan of previously ascertaining what were the pursuits of those he would converse with, and picking up at second-hand a few common-places with which to regale his guests, who, expecting little from an Emperor, and interdicted from anything like discussion by the etiquette of a court, were sure to leave the presence deeply impressed with his information and his powers. If he was superficial in general knowledge, he could not be said to have any great capacity either for civil or military affairs. To tell that he constantly pursued the Russian policy, of invariably gaining some accession of territory, be it ever so little, in whatever war he might be engaged, and that his treaties of peace never formed any exception to this Muscovite rule, is only to say that he followed in the train of all his predecessors from Peter the First downwards. Placed in circumstances of unprecedented peril, no passage of his life can be referred to

in proof of any resources being displayed by him, which the most ordinary of Princes would not have shewn himself possessed of. Stimulated by the exigencies of so many great emergencies, he never rose with the occasion, and unlike any one with pretensions to eminence, was generally found most wanting when the crisis was the most trying. At his accession, he found the armed neutrality of the North discomfited by the battle of Copenhagen; and he at once yielded all the points for which his father, a far superior though an eccentric man, had contended, unawed by any difficulties, and unsubdued by any reverses. Joining the third coalition against France, but possessing no General who like Suwarrow could lead his armies to victory, he sustained one of the most memorable overthrows recorded in history, and was compelled to purchase peace, and escape invasion, by abandoning the alliance into which he had voluntarily entered. Stricken to the heart with the fear of France, and hardly knowing whether to seek for safety in resistance or in submission to her dictation, he again had recourse to war, for which he had no kind of genius. Again defeated in one of the greatest and most decisive battles of modern times, he formed the closest alliance with his victorious enemy, who soon found it easy to mould which way soever he pleased a person quite as vain and as shallow as he was nimble and plausible. At length came the great crisis both of Alexander's fate and of the world's. Napoleon, obstinately bent on subduing the Peninsula, while he continued to make war in the North, was worsted repeatedly by the English arms; pushed his forces in unexampled numbers through Germany, to

attack the Russian Empire; and penetrated to its ancient capital, after many bloody engagements, and an immense loss sustained on either side. The savage determination of Rostopschin prevented, by burning the city, a renewal on the Moskwa of the scenes five years before enacted on the Niemen. Alexander was prevented from making peace and tendering submission, by the enterprising spirit of that barbarous chief, and the prompt decision and resolute determination of Sir Robert Wilson. The inclemency of an unusually early and severe northern winter did all the rest, and Europe was saved by the physical powers brought happily to bear upon and to destroy the greatest army ever sent into the field.* No trait of military genius —no passage of civil capacity—no instance of shining public virtue—can be cited as displayed by him during a struggle so singularly calculated to draw forth men's powers, to fire them with generous ardour, to nerve their arms with new vigour, to kindle the sparks of latent genius until it blazed out to enlighten and to save a world.

When the struggle was over, and his empire restored to peace, he shewed no magnanimous gratitude

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* There are few things more finely imagined than a passage written by the late eloquent and ingenious Mr. John Scott upon this great event. After describing the vast bustle and painful effects of the military preparations and exertions, which left the whole affair undecided, he notes the mighty contrast presented by the still and sublime energies of nature—Flakes of a white substance, during a few hours, fall through the air in deep silence, and all is settled for ever.

> Hi motus animorum, atque hæc certamina tanta
> Pulveris exigui jactu compressa quiescunt.

This is the same gentleman who wrote the paper on Military Punishments, for which the Hunts and Mr. Drakard were prosecuted.

to the brave people who had generously made such unparalleled sacrifices, and had cheerfully suffered such cruel miseries for the defence of his crown. He joined his royal associates in breaking all the promises that had been made during the perils of the war; and in imitating the very worst part of his conduct whom, with the words of justice, peace, and right on their lips, they had, with the aid of their gallant subjects, overthrown. His shallow vanity was displayed during the visit of the Princes to England. When, among other party leaders, Lord Grenville was presented to him, he thought it was hitting on an excellent improvement in the conduct of party concerns, to recommend that, instead of urging objections in Parliament to the Ministerial measures, the Opposition should seek private audiences of their adversaries from time to time, and confidentially offer their objections, or propose their amendments. Nor was this vain and superficial Prince made at all sensible of the folly he had committed, by the somewhat peremptory negative which a few characteristic words and gestures of the veteran party man suddenly put upon his shallow and ignorant scheme. Although the Emperor repeatedly testified a somewhat marked disrespect for our Regent, he yet suffered himself to be overpowered by the Carlton House emissaries, and avoided the ordinary civility of visiting the Princess of Wales, then, as always, the object of her royal husband's unceasing persecutions. The English people drew from thence a conclusion highly unfavourable to the independence of his character, as well as to the kindliness of his nature; and he made quite as little impression

upon them as his more unpretending, though certainly not much less distinguished brother of Prussia.

His reputation for honesty stood extremely low, even among persons of his pre-eminent station. Napoleon, who knew his imperial brother thoroughly, applied to him the uncourtly, and indeed rather unceremonious description of "*faux, fin, et fourbe, comme un Grec du bas empire.*" It would be highly unjust to tax him with any participation in his father's murder; nor would the certainty, if it existed, of his privity to it, be any stain upon his character, unless we were also assured, contrary to all probability, that he had any power whatever to prevent it. But he was certainly bound in common decency to discountenance, if he dared not punish, the men whose daggers had opened for him the way to a throne; and more unthinking folly, greater indecorum, worse judgment in every way, can hardly be imagined, than his referring to the blood shed in palaces, when he issued, with his confederates, the Manifesto against Spain, alluded to in the following speech. His course was marked by no displays either of princely or of private virtues,—of munificence, of magnanimity, of self-denial, of plain-dealing. Nor did the extraordinary pretences to religion, which marked his latter years, succeed in deceiving any one, but such as were, either from the adulation of the Court, or the enthusiasm of the Conventicle, willing and even anxious to be deluded. Among such dupes, he passed for somewhat more pious than his royal compeers; but few were, even in that class, found so charitable as to believe in his honesty, or to suppose that under the professions of

the Christian treaty, there lurked no hidden designs of a purely secular and strictly royal description.*

The denial first, the explanation afterwards, finally the defence of the Holy Alliance, devolved upon one who had been the associate of the three Sovereigns in that distribution of European dominion, which their unlooked for good fortune, arising principally from a severe winter and Napoleon's obstinate ambition, had thrown into their hands. Lord Castlereagh seemed still less intended by nature to bear the part which fell to his share in such mighty transactions, than the Allied Princes themselves. That we should have lived to see, twice over, the march to Paris, which for so many years had been the bye-word for a military impossibility, and long after events seemed to have rendered the idea still more absurd than when its first promulgation clothed the propounder in never-dying ridicule, was indeed sufficiently marvellous. But it appeared, if possible, yet more incredible, that we should witness Lord Castlereagh entering the House of Commons, and resuming amidst universal shouts of applause, the seat which he had quitted for a season to attend as a chief actor in the new arrangement of Continental territory, the restoration of old monarchies and the creation of new, when Mr. Pitt, and Mr. Fox, and Mr. Windham, had never even aspired to more than rescuing their own country from the war without positive disgrace, and even Mr. Burke had only looked to the restoration of the Bourbon

* The selection of such eminent diplomatic talents as adorn and distinguish the Lievens and the Pozzos, appears to have been his greatest praise.

throne by the efforts of the French themselves, and had been treated as a visionary for indulging in so wild a hope.

Few men of more limited capacity, or more meagre acquirements than Lord Castlereagh possessed, had before his time ever risen to any station of eminence in our free country; fewer still have long retained it in a State, where mere Court intrigue and princely favour have so little to do with men's advancement. But we have lived to see persons of more obscure merit than Lord Castlereagh rise to equal station in this country. Of sober and industrious habits, and become possessed of business-like talents by long experience, he was a person of the most commonplace abilities. He had a reasonable quickness of apprehension and clearness of understanding, but nothing brilliant or in any way admirable marked either his conceptions or his elocution. Nay, to judge of his intellect by his eloquence, we should certainly have formed a very unfair estimate of its perspicacity. For, though it was hardly possible to underrate its extent or comprehensiveness, it was very far from being confused and perplexed in the proportion of his sentences; and the listener who knew how distinctly the speaker could form his plans, and how clearly his ideas were known to himself, might, comparing small things with great, be reminded of the prodigious contrast between the distinctness of Oliver Cromwell's understanding, and the hopeless confusion and obscurity of his speech. No man, besides, ever attained the station of a regular debater in our Parliament with such an entire want of all classi-

cal accomplishment, or indeed of all literary provision whatsoever. While he never shewed the least symptoms of an information extending beyond the more recent volumes of the Parliamentary Debates, or possibly the files of the newspapers only, his diction set all imitation, perhaps all description, at defiance. It was with some an amusement to beguile the tedious hours of their unavoidable attendance upon the poor, tawdry, ravelled thread of his sorry discourse, to collect a kind of *ana* from the fragments of mixed, incongruous, and disjointed images that frequently appeared in it. "The features of the clause"—"the ignorant impatience of the relaxation of taxation"—"sets of circumstances coming up and circumstances going down"—"men turning their backs upon themselves"—"the honourable and learned gentlemen's wedge getting into the loyal feelings of the manufacturing classes"—"the constitutional principle wound up in the bowels of the monarchical principle"—"the Herculean labour of the honourable and learned member, who will find himself quite disappointed when he has at last brought forth his Hercules"—(by a slight confounding of the mother's labour, who produced that hero, with his own exploits which gained him immortality)—these are but a few, and not the richest samples, by any means, of a rhetoric which often baffled alike the gravity of the Treasury Bench and the art of the Reporter, and left the wondering audience at a loss to conjecture how any one could ever exist, endowed with humbler pretensions to the name of orator. Wherefore, when the Tory party "having a devil," preferred him to Mr. Canning for their leader, all men

naturally expected that he would entirely fail to command even the attendance of the House while he addressed it; and that the benches, empty during his time, would only be replenished when his highly gifted competitor rose. They were greatly deceived; they underrated the effect of place and power; they forgot that the representative of a government speaks "as one having authority, and not as the scribes." But they also forgot that Lord Castlereagh had some qualities well-fitted to conciliate favour, and even to provoke admiration, in the absence of every thing like eloquence. He was a bold and fearless man; the very courage with which he exposed himself unabashed to the most critical audience in the world, while incapable of uttering two sentences of any thing but the meanest matter, in the most wretched language; the gallantry with which he faced the greatest difficulties of a question; the unflinching perseverance with which he went through a whole subject, leaving untouched not one of its points, whether he could grapple with it or no, and not one of the adverse arguments, however forcibly and felicitously they had been urged, neither daunted by recollecting the impression just made by his antagonist's brilliant display, nor damped by consciousness of the very rags in which he now presented himself—all this made him upon the whole rather a favourite with the audience whose patience he was taxing mercilessly, and whose gravity he ever and anon put to a very severe trial. Nor can any one have forgotten the kind of pride that mantled on the fronts of the Tory phalanx, when, after being overwhelmed with the powerful fire of the Whig

opposition, or galled by the fierce denunciations of the Mountain, or harassed by the splendid displays of Mr. Canning, their chosen leader stood forth, and presenting the graces of his eminently patrician figure, flung open his coat, displayed an azure ribbon traversing a snow white chest, and declared "his high satisfaction that he could now meet the charges against him face to face, and repel with indignation all that his adversaries had been bold and rash enough to advance."

Such he was in debate; in council he certainly had far more resources. He possessed a considerable fund of plain sense, not to be misled by any refinement of speculation, or clouded by any fanciful notions. He went straight to his point;—he was brave politically as well as personally. Of this, his conduct on the Irish Union had given abundant proof; and nothing could be more just than the rebuke which, as connected with the topic of personal courage, we may recollect his administering to a great man who had passed the limits of Parliamentary courtesy—"Every one must be sensible," he said, "that if any personal quarrel were desired, any insulting language used publicly, where it could not be met as it deserved, was the way to prevent and not to produce such a rencounter."—No one after that treated him with disrespect. The complaints made of his Irish administration were perfectly well grounded as regarded the corruption of the Parliament by which he accomplished the Union; but they were entirely unfounded as regarded the cruelties practised during and after the Rebellion. Far from partaking in these atrocities, he uniformly and strenuously set his face against them.

He was of a cold temperament and determined character, but not of a cruel disposition; and to him, more than perhaps to any one else, was owing the termination of the system stained with blood.

His foreign administration was as destitute of all merit as possible. No enlarged views guided his conduct; no liberal principles claimed his regard; no generous sympathies, no grateful feelings for the people whose sufferings and whose valour had accomplished the restoration of their national independence, prompted his tongue, when he carried forth from the land of liberty that influence which she had a right to exercise, —she who had made such vast sacrifices, and was never in return to reap any the least selfish advantage. The representative of England among those Powers whom her treasure and her arms had done so much to save, he ought to have held the language becoming a free state, and claimed for justice and for liberty the recognition which we had the better right to demand, that we gained nothing for ourselves after all our sufferings, and all our expenditure of blood as well as money. Instead of this, he flung himself at once and for ever into the arms of the sovereigns—seemed to take a vulgar pride in being suffered to become their associate—appeared desirous, with the vanity of an upstart elevated unexpectedly into higher circles, of forgetting what he had been, and qualifying himself for the company he now kept, by assuming their habits,— and never pronounced any of those words so familiar with the English nation and with English statesmen, in the mother tongue of a limited monarchy, for fear they might be deemed low-bred, and unsuited to the

society of crowned heads, in which he was living, and to which they might prove as distasteful as they were unaccustomed.

It is little to be wondered at, that those potentates found him ready enough with his defence of their Holy Alliance. When it was attacked in 1816, he began by denying that it meant anything at all. He afterwards explained it away as a mere pledge of pacific intentions, and a new security for the stability of the settlement made by the Congress of Vienna. Finally, when he was compelled to depart from the monstrous principles of systematic interference to which it gave birth, and to establish which it was originally intended, he made so tardy, so cold, so reluctant a protest against the general doctrine of the allies, that the influence of England could not be said to have been exerted at all in behalf of national independence, even if the protest had been unaccompanied with a *carte blanche* to the Allies for all the injuries they were offering to particular states in the genuine spirit of the system protested against. The allies issued from Troppau one manifesto, from Leybach another, against the free constitution which had just been established at Naples by a military force co-operating with a movement of the people. On the eve of the Parliament meeting (19th Jan. 1821,) Lord Castlereagh delivered a note to the Holy Allies, expressing in feeble and measured terms a very meagre dissent from the principle of interference; but adding a peremptory disapproval of the means by which the Neapolitan revolution had been effected, and indicating very plainly that England would allow whatever they chose to do for the purpose

of putting down the new government and restoring the old. It is certain that this kind of Revolution is of all others the very worst, and to liberty the most unpropitious. It is also probable that the people of Naples knew not what they sought; nay, when they proclaimed the Spanish Constitution, it is said there was no copy of it to be found in the whole city. Nevertheless the same kind of military movement had produced the destruction of the same constitution in Spain, and restored the power and prerogative of Ferdinand; and no exception had been ever taken to it, in that instance, either by the Holy Allies or by England. There could therefore be no doubt whatever, that this mode of effecting changes in a government was only displeasing to those parties when the change happened to be of a popular kind, and that a military revolution to restore or to found a despotic government, was a thing perfectly to their liking. Thus faintly dissented from as to the principle, and not even faintly opposed as to the particular instance, the three sovereigns deputed one of their number to march, and the Austrian troops ended, in a few days, all that the Neapolitan army had done in as many hours.

But late in 1822, Spain, or rather Madrid, again became the scene of a revolutionary movement; and the people obtained once more a free form of government. Again the Holy Allies were at work; and, on this occasion, their manifestos were directed to arm France with the authority of the League. First, an army was assembled on the Spanish frontier, under the stale pretext of some infectious disorder requiring a sanatory cordon; the same pretext on which the predecessors of

the Holy Allies had in former times surrounded unhappy Poland with their armed hordes—the only difference being, that an epidemic was in that instance said to be raging among the cattle, and now it was supposed to be the plague among men. A great change had, however, now taken place in the British department of Foreign affairs. Lord Castlereagh's sudden death had changed Mr. Canning's Indian destination, and placed him both at the head of the Foreign Office, and in the lead of the House of Commons. His views were widely different from those of his predecessor. He was justly jealous of the whole principles and policy of the Holy Alliance; he was disgusted with the courtly language of the crafty and cruel despots who, under the mask of religious zeal, were enslaving Europe; he was indignant at the subservient part in those designs which England had been playing; and he was resolved that this obsequiousness should no longer disgrace his country. In America, he was determined that the colonies of Spain should be recognised as clothed with the independence which they had purchased by their valour; in Europe, he was fixed in the design of unchaining England from the chariot wheels of the Holy Allies. When Parliament met, the speech from the Throne contained some indications of these principles; and more were given by the ministerial speakers who began the debate on the address. The following speech was delivered on that occasion by Mr. Brougham, who had, almost unsupported, seven years before, denounced the Holy Alliance, and moved for the production of the Christian Treaty of September 1815, which Lord Castlereagh, on the pretences already described, had refused.

Although on that earlier occasion he had met with hardly any support from the regular leaders of the Whig party, he had yet obtained the countenance, to him of all others the most grateful, of Sir Samuel Romilly and Mr. Horner. Of the former, opportunity has already been given to speak; it is fit something should here be said of the latter, upon an occasion certainly connected with that on which he made the most remarkable of the displays that won for him the admiration of the House of Commons, and made the sorrow for a loss, as premature as it was irreparable, the more lasting.

Mr. Horner having entered public life without any advantage of rank or fortune, had in a very short time raised himself to a high place among the members of the Whig party, (to which he was attached alike from sincere conviction, and from private friendship with its chiefs,) by the effect of a most honourable and virtuous character in private life, a steady adherence to moderate opinions in politics, talents of a very high order, and information at once accurate and extensive upon all subjects connected with state affairs. Not that his studies had been confined to these; for his education, chiefly at Edinburgh, had been most liberal, and had put him in possession of far more knowledge upon the subjects of general philosophy, than falls to the lot of most English statesmen. All the departments of moral science he had cultivated in an especial manner; and he was well grounded in the exacter sciences, although he had not pursued these with the same assiduity. The profession of the law, which he followed, rather disciplined his mind than distracted it

from the more attractive and elegant pursuits of literary leisure; and his taste, the guide and controul of eloquence, was manly and chaste, erring on the safer side of fastidiousness. Accordingly, when he joined his party in Parliament, his oratory was of a kind which never failed to produce a very great effect, and he only did not reach the highest place among debaters, because he was cut off prematurely, while steadily advancing upon the former successes of his career. For although in the House of Commons he had never given the reins to his imagination, and had rather confined himself to powerful argument and luminous statement than indulged in declamation, they who knew him, and had heard him in other debates, were aware of his powers as a declaimer, and expected the day which should see him shining in the more ornamental parts of oratory. The great question of the Currency had been thoroughly studied by him at an early period of life, when the writings of Mr. Henry Thornton and Lord King first opened men's eyes to the depreciation which Mr. Pitt's ill-starred policy had occasioned. With the former he had partaken of the doubts by which his work left the question overcast in 1802; the admirable and indeed decisive demonstration of the latter in the next year, entirely removed those doubts; and Mr. Horner, following up the able paper upon the subject, which he had contributed to the *Edinburgh Review* at its first appearance, with a second upon Lord King's work, avowed his conversion, and joined most powerfully with those who asserted that the currency had been depreciated, and the metallic money displaced by the inconvertible Bank paper.

In 1810, he moved for that famous Bullion Committee, whose labours left no doubt upon the matter in the minds of any rational person endowed with even a tolerable clearness of understanding; and the two speeches which he made, upon moving his resolutions the year after, may justly be regarded as finished models of eloquence applied to such subjects. The fame which they acquired for him was great, solid, lasting; and though they might be surpassed, they were certainly not eclipsed, by the wonderful resources of close argument, profound knowledge, and brilliant oratory, which Mr. Canning brought to bear upon the question, and of which no one more constantly than Mr. Horner acknowledged the transcendent merits.

When the subject of the Holy Alliance was brought forward by Mr. Brougham, early in the session of 1816, Mr. Horner, who had greatly distinguished himself on all the questions connected with what the Ministers pleasantly called "the final settlement of Europe," during the absence of the former from Parliament, was now found honestly standing by his friend, and almost alone of the regular Whig party declared his belief in the deep-laid conspiracy, which the hypocritical phrases and specious pretences of the Allies were spread out to cover. The part he took upon the debate to which the treaties gave rise, shewed that there was no portion of the famous arrangements made at Vienna, to which he had not sedulously and successfully directed his attention. His speech on that occasion was admitted to be one of the best ever delivered in Parliament; and it was truly refreshing to hear questions of Foreign Policy, usually discussed with the superficial know-

ledge, the narrow and confused views to be expected in the productions of ephemeral pens, now treated with a depth of calm reflection, an enlarged perception of relations, and a provident forethought of consequences, only exceeded by the spirit of freedom and justice which animated the whole discourse, and the luminous clearness of statement which made its drift plain to every hearer.

But this able, accomplished, and excellent person was now approaching the term assigned to his useful and honourable course by the mysterious dispensations under which the world is ruled. A complication of extraordinary maladies soon afterwards precluded all further exertion, and, first confining his attention to the care of his health, before a year was over from the date of his last brilliant display, brought him deeply and universally lamented to an untimely grave.*

> "Ostendent terris hunc tantum fata, neque ultra
> Esse sinent. Nimium vobis Romana propago
> Visa potens, Superi, propria hæc si dona fuissent!"

When the new writ was moved, on his decease, for the burgh of St. Mawes, which he represented, Lord Morpeth† gave a striking sketch of his character. Mr.

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* It deserves to be noted, as a marvellous instance of that truly learned conjecture by which the skill of Dr. Baillie was distinguished, that after many other physicians had severally given their opinions on the nature of Mr. Horner's hidden complaints, Dr. Baillie at once decided against all those theories; but, when he came to propose his own, avowed the extreme uncertainty in which so obscure and difficult a case had left him. However, he said that he guessed it was one or the other of two maladies so rare that he had only seen a case or two of the one, and the other never but in a Museum of morbid anatomy. When the body was opened by Vacca at Pisa, where he died, it was found that both those rare diseases existed.

† Now Lord Carlisle.

Canning, Sir S. Romilly, Mr. W. Elliott, and others, joined in the conversation, and Mr. H. Lascelles* observed, with universal assent, that if the form of the proceeding could have admitted of a question being put upon Mr. Horner's merits, there would not have been heard one dissentient voice.

* Now Lord Harewood.

# SPEECH

UPON

# THE WAR WITH SPAIN.

DELIVERED IN THE HOUSE OF COMMONS,

FEBRUARY 4, 1823.

# SPEECH.

I RISE in consequence of the appeal made to every member of the House by the gallant officer* who has just sat down, to declare my sentiments: I answer that appeal, which does credit to the honour, to the English feeling of that gallant officer; and I join with him, and with every man who deserves the name of Briton, in unqualified abhorrence and detestation of the audacious interference to which he has alluded; or if that execration is at all qualified, it can only be by contempt and disgust at the canting hypocrisy of the language in which the loathsome principles of the tyrants are promulgated to the world. I have risen to make this declaration, called upon as I am in common with every member; but I should ill discharge my duty, if I did not mark my sense of the candour of the two Honourable gentlemen who have moved and seconded the address, and express my satisfaction at what, in the House, however divided

* Sir J. Yorke.

upon other points, will be almost, and certainly in the country will be quite unanimously felt to be, the sound and liberal view which they have taken of this great affair. Indeed, I know not, circumstanced as they were, that they could go farther; or even that His Majesty's Ministers, in the present state of this very delicate question, ought to have gone beyond the communication of to-day. That communication, coupled with the commentary of the Honourable mover, will be the tidings of joy, and the signal for exultation to England—it will spread gladness and exultation over Spain—will be a source of comfort to all other free states—and will bring confusion and dismay to the allies, who, with a pretended respect, but a real mockery of religion and morality, make war upon liberty in the abstract; endeavour to crush national independence wherever it is to be found; and are now preparing, with their armed hordes, to carry into execution their frightful projects. That Spain will take comfort from the principles avowed in the House this evening, I am certain; and I am not less clear, that the handful of men at present surrounding the throne of our nearest and most interesting neighbour, (who, by the way, has somehow or other been induced to swerve from the prudent councils which had till of late guided his course) will feel astonished and dismayed with the proceedings of this day, in proportion as others are encouraged. Cheering, however, as is the prevalence of such sentiments; highly as they raise the character of the nation, and much as may be augured from their effects,—still I think no man can deny, that the country is at present approaching to a crisis such as has not occurred perhaps for above a century, certainly not since the French revolution. Whether we view the internal condition of the kingdom, and the severe distress which presses upon that most important and most useful branch of the

community, the farmers; or cast our eyes upon our foreign relations,—our circumstances must appear, to the mind of every thinking man, critical and alarming. They may, it is true, soon wear a better aspect, and we may escape the calamities of war; but he must be a bold and possibly a rash man, certainly not a very thoughtful one, who can take upon him to foretell that so happy a fortune shall be ours.

It is the deep consideration of these things which induces me to come forward and make a declaration of my principles; and to state that, with a strict adherence to the most rigid economy in every department, the reduction of establishments which I am at all times, if not the first, at least among the foremost, to support, and which is so necessary, in the ordinary circumstances of the country, must now be recommended, with a certain modification, in order to adapt our policy to the present emergency. I am guilty of no inconsistency whatever, in thus qualifying the doctrine of unsparing retrenchment; indeed, the greater the chance of some extraordinary demand upon our resources, from the aspect of affairs abroad, the more imperious is the necessity of sparing every particle of expense not absolutely requisite. Economy to its utmost extent, I still recommend as politic, and urge as due to the people of right; and every expense is now to be regarded as more inexcusable than ever, both because the country is suffering more severely, and because it may become necessary soon to increase some parts of our establishment. I say I am certainly not prepared to propose, or to suffer, as far as my voice goes, any the least reduction of our Naval force, to the extent even of a single ship or seaman; on the contrary, I fear the time may not be distant when its increase will be required. Any such augmentation of the army, I cannot conceive to be justifiable in almost any circum-

stances; for, happen what may, a war on our part, carried on with the wasteful and scandalous profusion of the last, and upon the same vast scale, or any thing like it, is wholly out of the question.

[Mr. Brougham entered at some length into the internal state of the country—the indications of distress at the various meetings—the inconsistency of the violent attacks made upon the Norfolk petition by those who had passed the Gold Coin Bill of 1811, which enacted the parts of the Norfolk plan most liable to objection—the inadequacy of any relief to be obtained from repeal of taxes that only affected small districts—the absolute necessity of repealing a large amount of the taxes pressing generally on all classes—and, for this purpose, he urged the necessity of a saving wherever it could be effected with safety; and, at any rate, of giving up the Sinking Fund. He then proceeded:]

I think, then, that if war were once commenced, we should soon be compelled to take some part in it, one way or other, and that for such an emergency, every shilling which can be saved by the most rigid economy, should be reserved. I think our intervention in some shape will become unavoidable. We are bound, for instance, to assist one party, our old ally Portugal, if she should be attacked; and it is not likely that she can remain neuter, if the present hateful conspiracy against Spain shall end in open hostility. It is in this view of the question that I differ from the gallant officer* who last spoke; and I am glad that I could not collect from the Honourable mover or seconder, the ominous words "*strict neutrality*," as applied to this country, in the threatened contest. A state of *declared* neutrality on our part would be nothing less than a practical

* Sir J. Yorke.

admission of those principles which we all loudly condemn, and a license to the commission of all the atrocities which we are unanimous in deprecating. I will say, therefore, that it is the duty of His Majesty's Ministers, (with whom I should rejoice in co-operating on the occasion—and so, I am certain, would every one who now hears me, waving for a season all differences of opinion on lesser matters) to adopt and to announce the resolution, that when certain things shall take place on the Continent, they will be ready to assist the Spaniards—a measure necessary to avert evils, which even those the least prone to war (of which I avow myself one) must admit to be inevitable, should a wavering or pusillanimous course be pursued. Our assistance will be necessary to resist the wicked enforcement of principles contrary to the Law of Nations, and repugnant to every idea of National Independence.

To judge of the principles now shamelessly promulgated, let any man read patiently, if he can, the declarations in the Notes of Russia, Prussia, and Austria; and, with all due respect to those high authorities, I will venture to say, that to produce any thing more preposterous, more absurd, more extravagant, better calculated to excite a mingled feeling of disgust and derision, would baffle any chancery or state-paper office in Europe. I shall not drag the House through the whole nauseous details; I will only select a few passages, by way of sample, from those notable productions of Legitimate genius.

In the communication from the Minister of His Prussian Majesty, the Constitution of 1812, restored in 1820, and now established, is described as a system which—"confounding all elements, and all power, and assuming only the single principle of a permanent and legal opposition against the Government, necessarily destroys that central and tutelary authority which constitutes the essence of the monarchical system." Thus

far the King of Prussia, in terms which, to say the least, afforded some proof of the writer's knowledge of the monarchical system, and of the contrast which, in his opinion, it exhibited to the present Government of Spain. The Emperor of Russia, in terms not less strong, calls the Constitutional Government of the Cortes, "that which the public reason of Europe, *enlightened by the experience of all ages*, stamps with its disapprobation;" and complains of its wanting the "conservative principle of social order." Where, in the conservative character of Keeper of the Peace of Europe, does his Imperial Majesty discover that the Constitution of Spain had been stamped with the disapprobation of the public reason of Europe? Let the House observe, that the "public reason of Europe, enlightened by the experience of all ages," happens to be that of his Imperial Majesty himself for the last ten years exactly, and no more; for, notwithstanding that he had the "experience of all ages" before his eyes, he did, in the year 1812, enter into a treaty with Spain, with the same Cortes, under the same Constitution, not one iota of which had been changed up to that very hour. In that treaty, his Imperial Majesty the Emperor of all the Russias, speaking of the then government, did use the very word by which he and his allies would themselves be designated—the word, by the abuse of which they are known—he did call the Spanish Government of the Cortes "a *legitimate* Government," that very Government—that very Constitution—of which the Spaniards have not changed one word; and God forbid they should change even a letter of it, while they have the bayonet of the foreign soldier at their breast! I hope, if it has faults—and some faults it may have—that when the hour of undisturbed tranquillity arrives, the Spaniards themselves will correct them. If they will listen to the ardent wish

of their best friends—of those who have marked their progress, and gloried in the strides they have made towards freedom and happiness—of those who would go to the world's end to serve them in their illustrious struggle —of those, above all, who would not have them yield an hair's breadth to force,—my counsel would be to disarm the reasonable objections of their friends, but not to give up anything to the menaces of their enemies. I shall not go more into detail at the present moment, for ample opportunities will occur of discussing this subject; but I will ask, in the name of common sense, can any thing be more absurd, more inconsistent, than that Spain should now be repudiated as illegitimate by those, some of whom have, in treaties with her, described her Government in its present shape, by the very term, "legitimate Government?" In the treaty of Friendship and Alliance, concluded in 1812, between the Emperor of all the Russias and the Spanish Cortes, Ferdinand being then a close prisoner in France, his Imperial Majesty, by the third article, acknowledges in express terms, the Cortes, "and the CONSTITUTION sanctioned and decreed by it." This article I cite from the Collection of Treaties by Martens, a well known Germanic, and therefore a laborious and accurate, compiler.

But not only is the conduct of the Allies towards Spain inconsistent with the treaties of some among them with Spain,—I will shew that their principle of interference, in any manner of way, is wholly at variance with treaties recently made amongst themselves. I will prove, that one of the fundamental principles of a late treaty is decidedly opposed to any discussion whatever amongst them, respecting the internal situation of that country. By the 4th article of the Treaty of Aix-la-Chapelle, November 1818, it is laid down, that a special Congress may be held, from time

to time, on the affairs of Europe. Using the words, and borrowing the hypocritical cant of their predecessors, the same three Powers who basely partitioned Poland—who, while they despoiled a helpless nation of its independence, kept preaching about the quiet of Europe, the integrity of its states, and the morality and happiness of their people—talking daily about their desire of calm repose, the atmosphere, I well know, in which despotism loves to breathe, but which an ancient writer eloquently painted, when he said, that tyrants mistake for peace the stillness of desolation—following the vile cant of their ancestors,—the Allies declared, at Aix-la-Chapelle, that their object was to secure the tranquillity, the peace, which I, giving them credit for sincerity, read the *desolation*, of Europe, and that their fundamental principle should be, never to depart from a strict adherence to the law of nations. "Faithful to these principles," (continued this half-sermon, half-romance, and half-state-paper) "they will only study the happiness of their people, the progress of the peaceful arts, and attend carefully to the interests of morality and religion, of late years unhappily too much neglected"—here, again, following the example of the Autocratrix Catherine—the spoiler of Poland,—who, having wasted and pillaged it, province after province, poured in hordes of her barbarians, which hewed their way to the capital through myriads of Poles, and there, for one whole day, from the rising of the sun, to the going down thereof, butchered its unoffending inhabitants, unarmed men, and women, and infants; and not content with this work of undistinguishing slaughter, after the pause of the night had given time for cooling, rose on the morrow, and renewed the carnage, and continued it throughout that endless day; and after this, a *Te Deum* was sung, to return thanks for her success over the *enemies*, that is,

the natives, of Poland. That mild and gentle Sovereign, in the midst of these most horrible outrages upon every feeling of human nature, issued a proclamation, in which she assured the Poles, (I mean to give her very words) that she felt towards them, "the solicitude of a tender mother, whose heart is only filled with sentiments of kindness for all her children." Who can, or who dares doubt that she was all she described herself? and who can, after the experience of the last year, dispute the legitimate descent of the Allied powers, and the purity of their intentions towards Spain? But along with this declaration of the object of future Congresses, came the article which I should like to see some German statist,—some man versed in the manufacture of state-papers—compare with, and reconcile (if it only may be done within a moderate compass) to the notes fashioned at Verona, not unlikely by the very hands which produced the treaty of Aix-la-Chapelle. The article is this:—"Special Congresses concerning the affairs of states not parties to this Alliance, shall not take place, except" (and here I should like to know how Spain, which was no party to the alliance, has brought herself within the exception)—"*except in consequence of a formal invitation from such States;*" "and their ambassadors shall assist at such congresses." How will any German commentator reconcile these contradictions? Here the interference in the internal affairs of Spain is not only not "by special invitation" from, but is in downright opposition to, the will of Spain. Thus stands the conduct of those Holy Allies diametrically opposed to their own professions and engagements, and by such means is the attempt now made to crush the independence of a brave people.

But it is not in the case of Spain alone that the consideration of these papers is important—they fur-

nish grounds of rational fear to all independent governments; for I should be glad to learn what case it is (upon the doctrines now advanced) to which this principle of interference may not be extended?—or what constitution or what act of state it is on which the authority to comment, criticise, and dictate, may not be assumed? The House is not aware of the latitude to which the interference of those armed legislators may be, nay actually is, extended. The revolt of the colonies is distinctly stated as one ground of interposition! The allies kindly offer their "intervention" to restore this great branch of "the strength of Spain." There is no end of the occasions for interfering which they take. One is rather alarming—the accident of a sovereign having weak or bad ministers. Russia, forsooth, was anxious to see Ferdinand surrounded with "the most enlightened—most faithful of his subjects"—men "of tried integrity and superior talents"—men, in a word, who should be every way worthy of himself. So that, according to these wise men of Verona, (and this is a consideration which should be looked to in some other countries, as well as Spain) the existence of an inefficient or unprincipled administration, would be of itself a just ground of interference. The principle does not stop here. "Ruinous loans" form another ground, and "contributions unceasingly renewed;" "taxes which, for year after year, exhausted the public treasures and the fortunes of individuals"—these are instances, in which the principle of interference may apply to other powers beside Spain; and I have no doubt that when the same doctrines are extended to certain countries, the preparatory manifesto will make mention of agricultural distress, financial embarrassment, and the Sinking Fund. But, to complete all the charges against Spain, the Russian Emperor finishes his invective with the awful asser-

tion, that, on the 7th of July, "blood was seen to flow in the palace of the King, and a civil war raged throughout the Peninsula." It is true that a revolt had been excited in some of the provinces. But by whom? An ally. It was produced by those cordons of troops, which were posted on the Spanish frontier, armed with gold and with steel, and affording shelter and assistance by force, to those in whose minds disaffection had been excited by bribery. It is also true that blood has been shed. But would it not be supposed, by any person unacquainted with the fact, and who only read the statement in the manifesto, that this was blood shed in an attempt to dethrone Ferdinand, and introduce some new and unheard-of form of government? At any rate, does not this statement plainly intend it to be supposed, that the Constitutional party had made the onset, and shed royalist, if not royal blood? But what is the fact? A few persons were killed who had first attacked the constitutionalists, in other words, mutinied against the established government—the government which the Emperor Alexander himself recognised as legitimate in 1812; and this he has now the audacity to call the shedding of blood by Spaniards in the palace of the King!—As well might he accuse the People, the Parliament, and the Crown of England, of causing "blood to flow in the palace of the king," for ordering their sentinels to fire on some person whom they found attempting to assassinate the sovereign, as accuse the Spaniards of such a crime, for the events which happened in July 1822.

I shall pass over many other heavy charges levelled at the Spaniards, in phrases of terrible import—as harbouring a "disorganized philosophy,"—"indulging in dreams of fallacious liberty,"—and the want of "venerable and sacred rights," with which the Prussian note is loaded to repletion: and shall proceed to the Rus-

sian, which objects to the Spaniards their want of the "true conservative principle of social order"—or, in other words, of despotic power, in the hands of one man, for his own benefit, at the expense of all mankind besides; and to their not falling within the scope of those "grand truths," which, though they were ever in their mouths, were no where explained by any one of the three sovereigns. The Austrian note discourses largely of "the solid and venerable claims" which the Spanish nation has upon the rest of Europe: prays it to adopt a better form of government than it has at present; and calls upon it to reject a system which is at once "powerful and paralysed." It would be disgusting to enter at any length into papers, at once so despicable in their execution, and in their plan so abominably iniquitous. There is but one sentiment held regarding them out of the House; and my excuse for taking notice of them now, is my desire to call forth a similar expression of feeling from the House itself. Monstrous, and insolent, and utterly unbearable, as all of them are, I consider that of Russia to be more monstrous, more insolent, and more prodigiously beyond all endurance, than the rest. It is difficult to determine which most to admire—the marvellous incongruity of her language and conduct now, with her former most solemn treaties—or the incredible presumption of *her* standing forward to lead the aggression upon the independence of all free and polished states. Gracious God! Russia!—Russia!—a power that is only half civilized—which, with all her colossal mass of physical strength, is still quite as much Asiatic as European—whose principles of policy, foreign and domestic, are completely despotic, and whose practices are almost altogether oriental and barbarous! In all these precious documents, there is, with a mighty number of general remarks, mixed up a wondrous affectation of honest

principles—a great many words covering ideas that are not altogether clear and intelligible; or, if they happen to be so, only placing their own deformity in a more hideous and detestable light: but, for argument, or any thing like it, there is none to be found from the beginning to the end of them. They reason not, but speak one plain language to Spain and to Europe, and this is its sum and substance:—"We have hundreds of thousands of hired mercenaries, and we will not stoop to reason with those whom we would insult and enslave." I admire the equal frankness with which this haughty language had been met by the Spanish Government: the papers which it had sent forth are plain and laconic; and borrowing for liberty, the ancient privilege of tyrants—to let their will stand in the place of argument—they bluntly speak this language;—"We are millions of freemen, and will not stoop to reason with those who threaten to enslave us." They hurl back the menace upon the head from which it issued, little caring whether it came from Goth, or Hun, or Calmuck; with a frankness that outwitted the craft of the Bohemian, and a spirit that defied the ferocity of the Tartar, and a firmness that mocks the obstinacy of the Vandal. If they find leagued against them the tyrants by whom the world is infested, they may console themselves with this reflection, that wherever there is an Englishman, either of the old world or of the new—wherever there is a Frenchman, with the miserable exception of that little band which now, for a moment, sways the destinies of France in opposition to the wishes and interests of its gallant and liberal people—a people which, after enduring the miseries of the Revolution, and wading through its long and bloody wars, are entitled, Heaven knows, if ever any people were, to a long enjoyment of peace and liberty, so dearly and so honourably purchased—wherever there breathes an Englishman or a

true-born Frenchman—wherever there beats a free heart or exists a virtuous mind, there Spain has a natural ally, and an inalienable friend. For my own part, I cannot but admire the mixture of firmness and forbearance which the Government of Spain has exhibited. When the Allied Monarchs were pleased to adopt a system of interference with the internal policy of Spain—when they thought fit to deal in minute and paltry criticisms upon the whole course of its domestic administration—when each sentence in their manifestoes was a direct personal insult to the government, nay, to every individual Spaniard—and when the most glaring attempts were made in all their State papers to excite rebellion in the country, and to stir up one class of the community against the other—it would not have surprised me, if, in the replies of the Spanish Government, some allusion had been made to the domestic policy of the Allied Sovereigns; or if some of the allegations which had been so lavishly cast upon it, had been scornfully retorted upon those who had so falsely and so insolently called them forth. What could have been more pardonable, nay, what more natural, than for the Spanish Government to have besought his Prussian Majesty, who was so extremely anxious for the welfare and good government of Spain—who had shewn himself so minute a critic on its laws and institutions, and who seemed so well versed in its recent history—to remember the promises which he made some years ago to his own people, by whose gallant exertions, on the faith of those promises, he had regained his lost crown? What would have been more natural than to have suggested, that it would be better, aye, and safer too in the end, to keep those promises, than to maintain, at his people's cost, and almost to their ruin, a prodigious army, only safely employed when in the act of ravaging the territories, or putting

down the liberties, of his neighbours? The Government of Spain would have had a right to make such representations, for his Prussian Majesty owed much, very much, to its exertions; indeed, the gallant resistance which it made to the invasion of Buonaparte had alone enabled Prussia to shake off the yoke; while, on the other hand, the Spaniards owed a debt of gratitude to the brave and honest people of Prussia for beginning the resistance to Buonaparte in the north. Could any thing, I will also ask, have been more natural for the Spanish Government, than to have asked the Emperor of Austria, whether he, who now pretended to be so scrupulously fond of strict justice in Ferdinand's case, when it cost him nothing, or must prove a gain, had always acted with equal justice towards others, when he was himself concerned? Could any thing have been more natural, than suggesting to him, that before he was generous to King Ferdinand, he might as well be just to King George; that he had better not rob the one to pay the other—nay, that he ought to return him the whole, or at any rate, some part of the millions, principal and interest, which he owed him?—a debt which, remaining unpaid, wastes the resources of a faithful ally of Spain, and tends mightily to cripple his exertions in her behalf. I wish likewise to know what could have been more natural—nay, if the doctrine of interference in the internal concerns of neighbouring nations be at all admitted—what could have been more rightful, in a free people, than to have asked him how it happened that his dungeons were filled with all that was noble, and accomplished, and virtuous, and patriotic in the Milanese?—to have called on him to account for the innocent blood which he had shed in the north of Italy?—to have required at his hands satisfaction for the tortures inflicted in the vaults and caverns where the flower of his Italian subjects were

now languishing?—to have demanded of him some explanation of that iron policy which has consigned fathers of families, the most virtuous and exalted in Europe, not to the relief of exile or death, but to a merciless imprisonment for ten, fifteen, and twenty years, nay, even for life, without a knowledge of the charge against them, or the crime for which they are punished? Even the Emperor Alexander himself, tender and sensitive as he is at the sight of blood flowing within the precincts of a royal palace,—a sight so monstrous, that if his language could be credited, it had never before been seen in the history of the world,—might have been reminded of passages in that history, calculated to lessen his astonishment at least, if not to soothe his feelings; for the Emperor Alexander, if the annals of Russian story may be trusted, however pure in himself, and however happy in always having agents equally innocent, is nevertheless descended from an illustrious line of ancestors, who have, with exemplary uniformity, dethroned, imprisoned, and slaughtered, husbands, brothers, and children. Not that I can dream of imputing those enormities to the parents, or sisters, or consorts; but it does happen that those exalted and near relations had never failed to reap the whole benefit of the atrocities, and had ever failed to bring the perpetrators to justice. In these circumstances, if I had had the honour of being in the confidence of his Majesty of all the Russias, I should have been the last person in the world to counsel my Imperial Master to touch upon so tender a topic—I should humbly have besought him to think twice or thrice, nay, even a third and a fourth time, before he ventured to allude to so delicate a subject—I should, with all imaginable deference, have requested him to meddle with any other topic—I should have directed him by preference to every other point of the compass—I

should have implored him rather to try what he could say about Turkey, or Greece, or even Minorca, on which he has of late been casting many an amorous glance—in short, any thing and every thing, before he approached the subject of "blood flowing within the precincts of a royal palace," and placed his allusion to it, like an artful rhetorician, upon the uppermost step of his climax. I find, likewise, in these self-same documents, a topic for which the Spanish Government, had it been so inclined, might have administered to the Holy Alliance another severe lecture; I allude to the glib manner in which the three Potentates now talk of an individual, who, let his failings or even his crimes be what they may, must always be regarded as a great and a resplendent character—who, because he was now no longer either upon a throne or at liberty, or even in life, is described by them, not merely as an ambitious ruler, not merely as an arbitrary tyrant, but as an upstart and an usurper. This is not the language which those Potentates formerly employed, nor is it the language which they were now entitled to use regarding this astonishing individual. Whatever epithets England, for instance, or Spain, may have a right to apply to his conduct, the mouths of the allies at least are stopped: *they* can have no right to call him usurper—they who, in his usurpations, had been either most greedy accomplices or most willing tools. What entitles the King of Prussia to hold such language now?—he who followed his fortunes with the most shameless subserviency, after the thorough beating he received from him, when trampled upon and trodden down in the year 1806? Before he had risen again and recovered the upright attitude of a man, he fell upon his knees, and still crouching before him who had made him crawl in the dust, kissed the blood-stained hand of Napoleon for leave to keep His Britannic Majesty's

foreign dominions, the Electorate of Hanover, which the Prussian had snatched hold of while at peace with England. So the Emperor Alexander, after he had also undergone the like previous ceremony, did not disdain to lick up the crumbs which fell from the table of his more successful rival in usurpation. Little, it is true, was left by the edge of Gallic appetite; but rather than have nothing—rather than desert the true Russian principle of getting something on every occasion, either in Europe or in Asia, (and of late years they had even laid claim to an almost indefinite naval dominion in America)—rather than forego the Calmuck policy for the last century and a half, of always adding something, be it ever so little, to what was already acquired, be it ever so great—he condescended to receive from the hand of Buonaparte a few square leagues of territory, with an additional population of some two or three thousand serfs. The object was trifling indeed, but it served to keep alive the principle. The tender heart of the father, overflowing, as his Imperial grandmother had phrased it, with the milk of human kindness for all his children, could not be satisfied without receiving a further addition to their numbers; and therefore it is not surprising, that on the next occasion he should be ready to seize, in more effectual exemplification of the principle, a share of the booty, large in proportion as his former one had been small. The Emperor of Austria, too, who had entered before the others into the race for plunder, and never weary in ill-doing, had continued in it till the very end—he who, if not an accomplice with the Jacobins of France in the spoliation of Venice, was at least a receiver of the stolen property—a felony, of which it was well said at the time in the House, that the receiver was as bad as the thief—that magnanimous Prince, who, after twenty years alternation of truckling and vapouring—now the

feeble enemy of Buonaparte, now his willing accomplice—constantly punished for his resistance, by the discipline invariably applied to those mighty Princes in the tenderest places, their capitals, from which they were successively driven—as constantly, after punishment, joining the persecutor, like the rest of them, in attacking and plundering his allies—ended, by craving the honour of giving Buonaparte his favourite daughter in marriage. Nay, after the genius of Buonaparte had fallen under the still more powerful restlessness of his ambition—when the star of his destiny had waned, and the fortune of the Allies was triumphant, through the roused energies of their gallant people, the severity of the elements, his own turbulent passions, and that without which the storms of popular ferment, and Russian winter, and his own ambition, would have raged in vain, the aid of English arms, and skill, and gallantry—strange to tell, these very men were the first to imitate that policy against which they had inveighed and struggled, and to carry it farther than the enemy himself in all its most detestable points. I maintain that it is so; for not even by his bitterest slanderers was Buonaparte ever accused of actions so atrocious as was the spoliation of Norway, the partition of Saxony, the transfer of Genoa, and the cession of Ragusa, perpetrated by those in whose mouths no sound had been heard for years but that of lamentation over the French attacks upon national independence. It is too much, after such deeds as these—it is too much, after the Allies had submitted to a long course of crouching before Buonaparte, accompanied by every aggravation of disgrace—it is too much for them now to come forth, and calumniate his memory for transactions, in the benefits of which they participated at the time, as his accomplices, and the infamy of which they have since surpassed

with the usual exaggeration of imitators. I rejoice that the Spaniards have only such men as these to contend with. I know that there are fearful odds when battalions are arrayed against principles. I may feel solicitous about the issue of such a contest. But it is some consolation to reflect, that those embodied hosts are not aided by the merits of their chiefs, and that all the weight of character is happily on one side. It gives me, however, some pain to find that a monarch so enlightened as the King of France has shewn himself on various occasions, should have yielded obedience, even for an instant, to the arbitrary mandates of this tyrannic Junto. I trust that it will only prove a temporary aberration from the sounder principles on which he has hitherto acted: I hope that the men, who appear to have gained his confidence only to abuse it, will soon be dismissed from his councils; or if not, that the voice of the country, whose interests they are sacrificing to their wretched personal views, and whose rising liberties they seem anxious to destroy, in gratification of their hatred and bigotry, will compel them to pursue a more manly and more liberal policy. Indeed, the King of France has been persuaded by the parasites who at present surround him, to go even beyond the principles of the Holy Alliance. He has been induced to tell the world, that it is from the hands of a tyrant alone that a free people can hold a Constitution. That accomplished Prince—and all Europe acknowledges him to be, amongst other things, a finished scholar,—cannot be but aware that the wise and good men of former times held far other opinions upon this subject; and if I venture to remind him of a passage in a recently recovered work of the greatest philosopher of the ancient world, it is in the sincere hope that his Majesty will consider it with all the attention that is due to such high authority. That

great man said, "Non in ulla civitate, nisi in qua summa potestas populi est, ullum domicilium libertas habet." I recommend to his Most Christian Majesty the reflection, that this lesson came not only from the wisdom of so great a philosopher, but also from the experience of so great a statesman. I would have him remember that, like himself, he lived in times of great difficulty and of great danger—that he had to contend with the most formidable conspiracy to which the life, property, and liberty of the citizen had ever been exposed—that, to defeat it, he had recourse only to the powers of the Constitution—threw himself on the good will of his patriotic countrymen—and only put forth the powers of his own genius, and only used the wholesome vigour of the law. He never thought of calling to his assistance the Allobroges, or the Teutones, or the Scythians of his day; and I now say, that if Louis XVIII. shall call upon the modern Teutones or Scythians to assist him in this unholy war, the day their hordes move towards the Rhine, judgment will go forth against him, and his family, and his councillors; and the dynasty of Gaul has ceased to reign.

What, I ask, are the grounds on which the necessity of this war is defended? It is said to be undertaken because an insurrection has broken out with success at Madrid. I deny this to be the fact. What is called an insurrection, was an attempt to restore the lawful Constitution of the country—a Constitution which was its established government, till Ferdinand overthrew it by means of a mutiny in the army; and therefore, when a military movement enabled the friends of liberty to recover what they had lost, it is a gross perversion of language to call this recovery, this restoration, by the name of insurrection,—an insidious confusion of terms, which can only be intended to blind the reason, or play upon the prejudices,

of the honest part of mankind. Let the pretext, however, for the war, be what it may, the real cause of it is not hard to conjecture. It is not from hatred to Spain or to Portugal that the Allied Sovereigns are for marching their swarms of barbarians into the Peninsula—it is not against freedom on the Ebro, or freedom on the Mincio, they make war. No, it is against *freedom!*—against freedom wherever it is to be found—freedom by whomsoever enjoyed—freedom by whatever means achieved, by whatever institutions secured. Freedom is the object of their implacable hate. For its destruction, they are ready to exhaust every resource of force and fraud. All the blessings which it bestows,—all the establishments in which it is embodied, the monuments that are raised to it, and the miracles that are wrought by it,—they hate with the malignity of demons, who tremble while they are compelled to adore; for they quiver by instinct at the sound of its name. And let *us* not deceive ourselves; these despots can have but little liking toward this nation and its institutions, more especially our Parliament and our Press. As long as England remains unenslaved; as long as the Parliament continues a free and open tribunal, to which the oppressed of all nations under heaven can appeal against their oppressors, however mighty and exalted—and with all its abuses, (and no man can lament them more than I do, because no man is more sensible of its intrinsic value, which those abuses diminish), with all its imperfections, (and no man can be more anxious to remove them, because none wishes more heartily, by restoring its original purity, to make it entirely worthy of the country's love),—it is still far too pure and too free to please the taste of the continental despots—so long would England be the object of their hatred, and of machinations, sometimes carried on covertly, sometimes openly, but always pursued with the same unre-

mitting activity, and pointed to the same end.—But it is not free states alone that have to dread this system of interference; this plan of marching armies to improve the political condition of foreign nations. It is idle to suppose that those armed critics will confine their objections to the internal policy of popular governments. Can any one imagine, that, if there be a portion of territory in the neighbourhood of the Emperor Alexander peculiarly suited to his views, he will not soon be able to discover some fault, to spy out some flaw in its political institutions requiring his intervention, however little these may savour of democracy, supposing it even to be a part of the Ottoman Government itself? If his Imperial Majesty be present in council with his consistory of jurists and diplomatists, I believe that it will be in vain for the Ulemah, to send a deputation of learned Muftis, for the purpose of vindicating the Turkish institutions. These sages of the law may contend that the Ottoman government is of the most "venerable description"—that it has "antiquity in its favour" —that it is in full possession of "the conservative principle of social order" in its purest form—that it is replete with "grand truths;"—a system "powerful and paralysed"—that it has never lent an ear to the doctrines of a "disorganized philosophy"—never indulged in "vain theories," nor been visited by such things as "dreams of fallacious liberty." All this the learned and reverend deputies of the Ulemah may urge, and may maintain to be true as holy Koran: still "The Three Gentlemen of Verona," I fear, will turn a deaf ear to the argument, and set about prying for some imperfection in the "pure and venerable system"—some avenue by which to enter the territory; and, if they cannot find a way, will probably not be very scrupulous about making one. The windings of the path may be hard to trace, but the result of the operation will be plain enough.

In about three months from the time of deliberation, the Emperor Alexander will be found one morning at Constantinople—or if it suit him, at Minorca—for he has long shewn a desire to have some footing in what he pleasantly termed the "western provinces" of Europe, which, in the Muscovite tongue, signifies the petty territories of France and Spain, while Austria and Prussia will be invited to look for an indemnity elsewhere; the latter, as formerly, taking whatever the King of England may have on the Continent. The principles on which this band of confederated despots have shewn their readiness to act, are dangerous in the extreme, not only to free states, (and to those to which no liberty can be imputed), but also to the states over which the very members of this unholy league preside. Resistance to them is a matter of duty to all nations, and the duty of this country is especially plain. It behoves us, however, to take care that we rush not blindly into a war. An appeal to arms is the last alternative we should try, but still it ought never to be so foreign to our thoughts as to be deemed very distant, much less impossible; or so foreign from our councils as to leave us unprepared. Already, if there is any force in language, or any validity in public engagements, we are committed by the defensive treaties into which we have entered. We are bound by various ties to prevent Portugal from being overrun by an enemy. If (which Heaven avert!) Spain were overrun by foreign invaders, what would be the situation of Portugal?—Her frontier on the side of Spain can scarcely be said to have an existence; there is no defending it anywhere; and it is in many places a mere imaginary line, that can only be traced on the page of the geographer; her real frontier is in the Pyrenees; her real defence is in their fastnesses and in the defence of Spain; whenever those passes are crossed,

the danger which has reached Spain will hang over Portugal. If we acknowledge the force of treaties, and really mean that to be performed for which we engaged, though we may not be bound to send an army of observation to watch the motions of the French by land, because that would be far from the surest way of providing for the integrity of our ally, at least we are bound to send a naval armament; to aid with arms and stores; to have at all times the earliest information; and to be ready at any moment to give effectual assistance to our ancient ally. Above all things, we ought to do that which of itself will be a powerful British armament by sea and by land—repeal without delay the Foreign Enlistment Bill—a measure which, in my opinion, we ought never to have enacted, for it does little credit to us either in policy or justice. I will not, however, look backward to measures on the nature of which all may not agree; I will much rather look forward, to avoid every matter of vituperation, reserving all blame for the foreign tyrants whose profligate conduct makes this nation hate them with one heart and soul, and my co-operation for any faithful servant of the Crown, who shall, in performing his duty to his country, to freedom, and to the world, speak a language that is truly British—pursue a policy that is truly free—and look to free states as our best and most natural allies against all enemies whatsoever; allies upon principle, but whose friendship was also closely connected with our highest interests;—quarrelling with none, whatever may be the form of their government, for that would be copying the faults we condemn;—keeping peace wherever we could, but not leaving ourselves a moment unprepared for war;—not courting hostilities from any quarter, but not fearing the issue, and calmly resolved to brave it at all hazards, should it involve us in the affray with them all;—de-

termined to maintain, amid every sacrifice, the honour and dignity of the Crown, the independence of the country, the ancient law of nations, the supremacy of all separate states; all those principles which are cherished as most precious and most sacred by the whole civilized world.

END OF VOLUME FIRST.

## ERRATA.

Page 373, line 25, for *vice-royalty*, read *foreign command.*

— 407, — 4, for *found*, read *framed.*

— 473, — 11, dele *but.*

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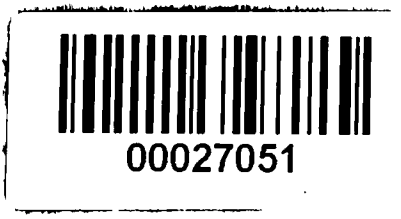
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